UNITED STATED DISTRICT COURT NORTHERN DISTRICT OF INDIANA SOUTH BEND DIVISION

Judge Robert J. Miller

978399

UNITED STATES OF AMERICA,

Plaintiff,

vs.

US EPA RECORD CENTER REGION 5

CASE NO.: S90-00056

CONSOLIDATED RAIL CORPORATION a/k/a CONRAIL,

Defendant and Third Party Plaintiff,

vs.

PENN CENTRAL CORPORATION, et al.,

Third Party Defendants.)

The deposition of RANDY HARVILLE,

Date: Tuesday, November 17, 1992

Time: 10:15 o'clock a.m.

Place: 205 West Jefferson, Suite 312

South Bend, Indiana 46601

Called as a witness by the Plaintiff, in accordance with the Federal Rules of Civil Procedure, pursuant to agreement as to date, time, and place.

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Before Lois A. Schoenbeck Notary Public, State of Indiana

APPEARANCES:

MR. PETER E. JAFFE
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Post Office Box 7611 Ben Franklin Station
Washington D.C. 20044,

For the Plaintiff;

MR. JAMES A. ERMILIO
BINGHAM, DANA & GOULD
Suite 1200
1550 M. Street, N.W.
Washington, D.C. 20005,

For Defendant and Third Party Plaintiff;

MR. PIERCE E. CUNNINGHAM
FROST & JACOBS
2500 Central Trust Center
201 East Fifth Street
Cincinnati, Ohio 45202,

For Third Party Defendant.

I N D E X

THE DEPOSITION OF

RANDY HARVILLE

DIRECT EXAMINATION							
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EXHIBTS

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Plaintiff's Exhibits:	
1 - Notice of Rule 30 (b) (6) Deposition,	
consisting of 7 pgs	6
2 - Aerial view of Elkhart Conrail yard	3 4
3 - Locomotive Fueling Facility, Facility	
Site Plan	8.2
4 - Locomotive Fueling Facility, Site Plan	
-Fuel Pump House and Storage Tanks	8 5
5 - Locomotive Fueling Facility, Plan -	
Diesel Shop Area	8 7

RANDY HARVILLE,

called as a witness by the Plaintiff, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JAFFE:

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- Q Please state your name for the record.
- 8 | A Randy Harville.
- 9 Q And your address?

1 0 A (b) (6

- Q And the telephone number where you can be reached?
- 1 3 | A (b) (6)
 - Q Good morning. My name is Peter Jaffe. I'm an attorney for the United States, and I represent the United States Environmental Protection Agency in litigation against Conrail to determine who should pay for environmental problems that are found at the Elkhart Railyard site.

MR. CUNNINGHAM: Who, if anyone.

MR. JAFFE: Well, somebody has to pay

for it. I apologize.

Q Today I'm going to ask you a series of questions, and the other attorneys might ask you

some questions as well.

If at any time you don't understand what I'm asking or you can't hear me or anything is unclear, I would appreciate it if you would ask me to repeat the question. Okay?

A Yes.

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- Also following this deposition, a transcript is going to be made by the court reporter here.

 And they will send you a copy of that for you to read and make any corrections that you will have to the transcript and then sign it and send it back. There will be more detailed instructions on that when you get it. Okay?
- A Yes.
 - Q First, let me ask you: have you reviewed any documents in preparation for this deposition?
- A No.
- Q Have you made any personal notes or memoranda in preparation for this deposition?
 - A No. The only thing that was -- there was a request made to provide some documentation on maintenance, and I've done that and faxed it to our environmental affairs people.
 - Q What type of documentation?
- A It was on some maintenance work done to the

1 cleaning out of the oil/water separator that's 2 been done over the last several years. 3 MR. ERMILIO: Peter, those documents have been provided to you in Conrail's 4 5 response to your second request for 6 documents. Copies were provided to you. MR. JAFFE: Were those provided with 8 the G.T.I. documents? 9 MR. ERMILIO: No, directly within the 10 response. 11 MR. JAFFE: Okay. Did you have any discussions with anyone other 12 Q 13 than attorneys for Conrail in preparation for 14 this deposition? 15 Just the Conrail attorney and the other people 16 you have had in here for depositions. I have 17 asked them what the procedure of the deposition 18 was, what the demeanor of the deposition was, 19 was it rigorous or not rigorous, but no details 20 about it. 21 (Plaintiff's Exhibit 1 marked 22 for identification.) 23 I'm showing you what's been marked as 24 Plaintiff's Exhibit 1 for this deposition. 25 Can you please read this and tell me which

of the numbered paragraphs beginning on page two 1 that you have knowledge about? 2 (Pause) Number two, location, the existence of 3 Α documents; number six; some of number seven; 4 5 eight; parts of number nine; ten; 11; 12; 13; 15; some of 19. That's all. 6 I'd like to take a little bit of time to get to 7 Q 8 know you. 9 Where did you go to high school? Sure. I went to high school in part of Detroit 10 Α Public School system, graduated there. 11 12 And what year did you graduate from there? 1.3 Α 1976 -- wait a minute that was college. That's 1970. 14 15 Q Okay. I take it from your last answer that you 16 went to college? 17 Α Yes. 18 Did you go directly on to college from high school? 19 2.0 Yes. Α What college? 21 2.2 Α Wayne State University. 23 And did you graduate? ଭ 24 Yes. 25 What year? Q.

1 A 1976.

- Q What was your degree?
- B A B.S. in double E.
 - Q What is a B.S. in double E?
 - A Bachelor of science degree in electrical engineering.
 - Q What is involved in the course of study of a bachelor of science, electrical engineering?
 - A All -- everything that has to do-- you know, I haven't done any electrical engineering since I left for 16 years. But it's basically a study of any electronics, power transmission systems, solid states, control systems. My goodness. That's enough.
 - Q Okay. What other types of science courses other than electrical engineering did you take?
 - A Of course you have some physics. You have some basic biology, chemistry. You have various liberal arts courses. There's some humanities.
 - What type of chemistry courses did you take, do you remember?
 - A Just one. It was a very basic chemistry course on the basics of chemistry and had some lab work with it. It was like a ten-week requirement.
 - Q So something like Chemistry 101?

1 Α That's what it was, very basic. Was this a six-year course or five-year course? 2 Q It's actually a five-year course. 3 Did you have any jobs part-time or summer jobs during the time you were at college that are pertinent to your job now with Conrail? 6 During that time I did some tool and die work. Α 7 What is involved in tool and die work? 8 Q 9 Machining parts. Α 10 Q Were you working the machines or were you doing electrical engineering work there? 11 12 Α Yes, I was working on the machines themselves. 13 Doing what precisely? 14 Milling, grinding, boring, etc. Α 15 Q What did you do following your graduation from 16 Wayne State? 17 Α Had several job opportunities offered. Hired out with Conrail. 18 What was your first position with Conrail? 19 20 Engineering management associate. What are the duties of an engineering management 21 22 associate? 23 Basically it was a one-year program to introduce Α

individuals recruited from college into the

Conrail system to move on to either an

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engineering job or on to management. 1 In short. 2 it was a management trainee program for one 3 year. What areas of Conrail did you work in? 4 0 5 Worked in Altoona, Pennsylvania, for the first 6 eight, nine months. Moved from there and went to Columbus, Ohio, where I worked in the car 8 department and the engine house for 9 approximately two months. 10 Do you want me to keep going? 11 Q Well, I'm not too interested in stays of only 12 two months. I'm more interested in the ones of 13 three months or longer. 14 From that I accepted a position as a scheduling 15 officer in Cleveland, Ohio. 16 Q When you say that you accepted a position, that 17 was following your tenure as an engineering 18 management associate? That's right. In fact, I was taken out of that 19 Α 20 program a little early because of need. 21 You went on to be a scheduling --22 I think it was called a scheduling coordinator A 23 or something like that. 24 Q And where was that?

Cleveland, Ohio.

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- Q Before we get on to that, I take it that when you were working as an engineering management associate, for example, in Altoona, that you were given some training at that time other than just working in a position?
 - A That's correct.

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- Q What kind of training was that?
- A They had a program set up where you would go to each department in the rebuilding of locomotives and spend a couple weeks on the job with the general foreman, or which you would basically learn his job: how to rebuild a truck, how to pull an engine apart, how to rebuild components to the engine, and you had to go through each area.

And also during that time they sent you off to New York Air Brake school for a week and they send you to General Motors for locomotive-engine rebuilding to learn the technical side of it.

- Q So at the end of that time in Altoona, you might say that you were familiar with all aspects of locomotive repair?
- A That's correct.
- Q And you were familiar with all of Conrail's programs and policies related to locomotive

repair? 1 2 Not in the eight months, no. There's no way. And why is that? 4 Α Because there's a lot of them, and there's no 5 way that you can absorb that much material in eight months or a year at Conrail and be able to 6 7 absorb all it standards, maintenance 8 regulations, and so on. So what you intend to . 9 do is get a basic -- very basic --10 understanding, and then you would go out into 11 the real world and over the years and years of 12 experience you learn all the regulations. 13 If I wanted to learn about, for example, the 14 regulations that related to hazardous material 15 handling, approximately how long would you say 16 an on-the-job person would take to learn that? For the whole Conrail system? 17 Α 18 Just say for one facility. Probably a one-year cycle. Probably one year 19 A 20 would get you most of it, maybe two. 21 depends. 22 Q What about if you were in a training program 23 like you were?

Still take a long time. I can't really answer

that. I mean, if you go to one facility that

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has a very large pollution abatement plant to 1 it, it would obviously take you a lot longer. If you go to a very small one that just has a water/oil separator, you could learn that much 4 5 quicker. So I don't really know. But to know all the facilities in Conrail, probably a 7 career. All right. So you went on from there in 9 approximately 1977 to become a scheduling 10 coordinator in Cleveland? 11 Um-hmm. Α 12 Q What type of a facility was that in Cleveland? 13 That was a major locomotive repair shop. 14 Repair, not overhaul. 15 What's the difference between a repair shop and 16 an overhaul shop? 17 Altoona is overhaul where you take the engine Α 18 apart, rebuild all the components. A repair 19 shop just repairs a component: puts a new water 20 pump on, puts a new fuel pump on, changes a fan. 2.1 Where in an overhaul shop, you would do 22 everything. 23 And why would one want to overhaul an engine 24 rather than just repair it?

Same reasons as for a car, it wears out.

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1 What were you duties as a scheduling coordinator 2 in Cleveland? Scheduling locomotives, manpower, and material 3 to various places in the shop so that it could be worked on in the most efficient, cost-5 effective manner. 6 Were you given training for that position? 7 Q 8 Α Yes. 9 What kind of training were you given? Q 10 About two months of training with a company 11 called WOFAC. I believe the parent company was Science Management. 12 13 What is WOFAC? What do they do? Q They are a consulting firm. They were hired by 14 management to train us on how to schedule the 15 16 jobs to be the most effective in the use of our 17 manpower, equipment, facilities, etc. So this was primarily classroom training? 18 Yes. 19 A 20 How long were you a scheduling coordinator in 21 Cleveland? 22 I was on that job about six or eight months, and 23 then accepted a promotion. And where were you promoted to? 2.4

At that shop as a general foreman.

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What are the duties of a general foreman? Q 1 Plan, lead, direct repair personnel on a 2 Α particular shift at a major diesel terminal. 3 You could probably write the employment Q 4 handbook. Very well put. 5 So this was still at the locomotive repair 6 facility? That's correct. 8 Α 9 And how long were you in that position? 10 Α About two years. 11 As a general foreman, were you responsible for ordering materials? 12 13 No. Α Were you responsible for the use of materials in 14 Q the repair of locomotives? 15 16 Yes. Α Were you familiar with the materials that were 17 being used at that time? 18 19 Α Yes. Were you familiar with the contents of some of 20 the chemicals that were used in any of the 21 22 repair operations? 23 Just very basic information. Α When you say "basic information," what do you 24

mean?

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1	A	Well, you have No. 2 diesel fuel, you have
2		lubricating oil, you have some greases, and you
3		have some soaps for cleaning equipment.
4	Q.	Do you know what type of soaps or other cleaners
5		were used on the engines?
6	Ą	Yes.
7	Q	Can you tell me about those?
8	A	Yes.
9	Q	Now we're talking at the time you were general
10		foreman in Cleveland.
11	A	Yes.
12		MR. CUNNINGHAM: What year?
1 3		THE WITNESS: That's about
1 4	BY	MR. JAFFE:
1 5	ବ	Would that have been beginning in '77 or '78; is
16		that correct?
1 7	A	If you're asking about '77, '78, '79, yes, I'll
18		tell you what was used?
19	Q	Okay.
20	A	We call it class 14 cleaner. And it's basically
2 1	-1	potassium hydroxide.
22	ବ	Is class 14 cleaner, is that a brand name or a
2 3		trade name?
2 4	A	It's an internal identification that's used by
2.5		us when ordering material.

When you say it's "used by us," you mean it's 1 Q 2 used by Conrail personnel? 3 Yes. Α When ordering through the Conrail system? 5 Α That's correct. When you received this class 14 cleaner, what 6 7 type of containers did it come in? 8 In 55-gallon drums. Was it labeled "Class 14 cleaner"? 9 I don't know. I really don't. 10 11 Do you remember what color the drums were? 12 Α Yes. 13 What color are or were they? 14 They were orange with a black -- I don't want to 15 guess now. It was some combination of orange 16 and black. 17 Was this the only thing that you received in a drum that looked like that? 18 19 Yes. 20 Do you know who you received it from? 21 I got it from our material management people. 22 But you don't know who they got it from? 23 Α No. 24 What other types of cleaners were used on the

engines at that time?

That's the only one that I know of. 1 2 Okay. Following your two years as a general foreman in Cleveland, where did you go from 3. there? 4 Accepted a promotion to Enola locomotive 5 A terminal in Harrisburg as a shift superintendent. What type of facility was Enola? 8 Q 9 Α It was a facility a little bit larger than 10 Cleveland, but it was basically a heavy repair 11 shop. 12 Q When you say "heavy repair shop," what do you mean? 13 14 Removed traction motors from under locomotives; 15 took the wheels out; removed power assemblies, 16 generators, air compressors, governors; did fuel tank repairs; a little more extensive repairs. 17 More extensive than Cleveland, but they did not 18 Q 19 actually rebuild engines, did they? 20 No, they're still not in rebuild. Α 21 What were your duties as a shift superintendent? Q 22 Very similar to a general foreman except now you A

have two general foreman that work for you which

have various duties that involve inspection,

testing, repair, and servicing of diesel

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locomotives at the facility. That also includes . 1 some electrics at the time. The old GG-1s, and 2 3 there was a facility there for maintaining them also. 4 What is a DOGG-1? 5 6 Α A GG-1. Okav. 7 8 Α Those were the electric ones that ran on the catenary system. It's an overhead electrical 9 10 system like a trolley car, but it's a large 11 locomotive and it runs off the catenary system. 12 They are now retired. And as a shift superintendent were you very 13 14 familiar with the operations going on the actual 15 repair of the locomotives? 16 For the most part, yes. 17 What do you mean "for the most part"? You're asking me if I knew every single repair 18 that's done, is that the question? 19 20 No. I'm asking if you were familiar with the 21 procedures for doing those repairs at that 22 facility? 23 Sure. Α

And are you familiar with the cleaning

procedures at the Enola locomotive yard as well

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as you were in Cleveland? 1 Yes. 2 Α And what types of cleaners were there? Q 3 Α They used a class 14 cleaner just like at Cleveland. 5 Did that also arrive in black and orange drums? Yes. Α 8 Were there any other cleaners used at that 9 facility, either on the electrical power that 10 you talked about earlier or anything else? 11 Not in 55-gallon drums. Α 12 Any cleaners that you were familiar with? 13 Spray can of electrical cleaner. Most of the Α 14 time it was called Inhibisol. I don't know 15 exactly what the contents were, but it was some 16 kind of volatile. You sprayed it on contact 17 tips, and it cleaned them up and evaporated 18 immediately. 19 Do you recall any distinguishing marks on the Inhibisol can? 20 21 A It's a green and white can. That's good enough. 22 23 Any other cleaners that you can remember? 24 No, that's it, the electrical cleaner and the

soap. That's it.

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1	િષ	when you say there is a soap, is that just basic
2		soap?
3	A	Yeah.
4	Q	How long were you shift superintendent in Enola?
ō	A	About six months then.
6	ବ	And then where did you go following being a
7		shift superintendent at Enola?
8	A	I accepted another promotion to go across the
9		river seven miles away to Harrisburg locomotive
10		terminal as an assistant shop manager.
11	Q	I'm sorry. What was your position?
12	A	Assistant shop manager.
1 3	Q	Do you recall approximately what year this was?
1 4	A	About 1980, somewhere in there.
15	ବ	How long did you hold that position?
16	A	Approximately three years.
17	ବ	What type of facility was the Harrisburg
18		locomotive terminal?
19	A	It was also a diesel repair facility as well as
20		a facility that maintained the E-33, the E-44,
21		and GG-1 electric power.
22	ର	What are the duties of an assistant shop
2 3		manager?
24	A	Previous positions were that I had one shift

that you were responsible for. As an assistant

shop manager, you had three superintendents that 1 worked for you and you were responsible for all three shifts, around the clock. Q When you say you were responsible for "all three 4. shifts," what types of responsibilities did you 5 have over those shifts? 6 Again, anything that has to do with inspect, 7 8 test, repair, and service of diesel locomotives, including administrative duties that went with 9 it. 10 11 Q Were your duties at this point primarily administrative? 12 At that point they became about 50 percent 13 administrative, and I will say another 50 14 15 percent was out in the shop. So again, were you familiar with the procedures 16 17 that were employed for repairing locomotives at that facility? 18 Yes. 19 And were you familiar with the materials used in 20 2.1 those repairs? Yes. 22 A Were any cleaners used at that facility? 23 Yes. 2.4Α 25 What cleaners were those?

- Class 14 as well as that electrical cleaner, 1 · A 2 Inhibisol. And those were used in the same way that you described earlier? 5 Α Yes. Following your tenure as an assistant shop 6 7 manager, what happened? Conrail started down-sizing at that point. 8 Α 9
 - accepted a lateral move to a staff position in Philadelphia for about a year and a half. And it was basically a program project coordinator. It was a staff position.
 - Q What does that mean?

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- Any projects that were going on. In particular, Α one we had where we were shutting down the Harrisburg locomotive terminal and consolidating it with the Enola diesel terminal. And that required transferring cranes, that meant putting new buildings up, making changes in the track 20 layout at Enola to accommodate the consolidation of the two shops. And my job was to make sure that that all happened smoothing.
 - When you say it was in Philadelphia, was this in the headquarters?
 - My position was in headquarters. Α Yes. However,

my home terminal, the place where I stayed, was 1 2 still Harrisburg. That way I didn't have to relocate. Okay. So you actually worked in Harrisburg even Q 5 though you were employed technically by the division in Philadelphia? That's correct. 7 Α 8 After you have one and a half years in that 9 position, what do you do? 10 Α That position required a lot of travel. I 11 requested a move back into the shops and took a 12 position as a shop superintendent back in Enola 13 for approximately, oh, I don't know, three years 14 or four years, something like that -- about 15 three years. 16 And that's primarily the same position that 17 you'd held earlier? 18 That's correct. 19 So the years of that second time at Enola were Q 20 what? 21 About three years. A 22 Do you recall the dates? Q 23 About '84 through '87, something like that. Α 2.4 Were any cleaners used at that time? Q

Same thing. The same type of cleaners that were

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used before: class 14 and electrical cleaner. What did you do in 1987 after your time as a 2 3 shop superintendent in Enola? Accepted a promotion in January of 1988 to come 4 A to Elkhart to run the Elkhart locomotive 5 terminal. 6 When you say "run," what was your position at 7 Q 8 that time? 9 It's the position I currently have. I manage a 10 shop here that does light running repair and 11 servicing, which is basically about inspect, 12 test, repair, and service of our locomotive 13 fleet. 14 How many people work under you? Q 15 Α I have 40 people here that work for me and a 16 dozen or so in Chicago -- 12. 17 When you say there's a dozen in Chicago, that's 18 a dozen people who work under you? 19 Α Yes, they report to me. 20 Where do those 12 people work? Q 21 All over Chicago city proper. They're what we 22 call a flying squad, which is basically two men 23 and a truck. And they go around and inspect the 24 power, sign off the federal cards on them, clean 25 the cabs, do various air brake tests on them.

They do no servicing. They basically just prepare them for leaving Chicago.

So they primarily inspect and clean those cars that are in the Chicago area?

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- A They sweep out the cabs is what they do: pick up the papers, sweep out the cigarette butts, used water bottles, etc. They don't wash anything.
- Q How does the Elkhart locomotive facility differ from the repair facilities that you worked in previously?
- A The hierarchy of how this works is: Altoona does the rebuilds; then you have heavy repair shops which are Enola, Cleveland, etc.; and then the next class of shops are satellite shops or light running repair shops, and that's what I have.

And the extent of the repairs in a light running repair shop are a lot less than what you do in heavy repair. In other words, here you would change simple components like a fuel pump, a water pump, some brushes in various motors.

You might change the coupler, might straighten out a grab iron from a crossing accident. You might change headlight bulbs, some brake shoes.

You do some periodic maintenance on the 1 equipment. There's a requirement by the feds to 2 inspect them every so often and do various maintenance. And that's what light running repair shops are there for as well as the 5 servicing of the power. 6 7 9 Okay. Before we get into more details about your work at Elkhart, since you graduated from 8 college, have you had any courses in the 9 10 sciences such as chemistry, physics, engineering sponsored by Conrail or anyone else? 11 No. Just manufacturer's schools on locomotive 12 A 13 repairs. That's basically it. Where is that manufacturer's school? 14 15 GE, Erie, P.A. 16 They provide one-week training classes on 17 their locomotives and how the repairs are done and they're to be properly calibrated and the 18 19 way they operate. 20 A.M.D., which is GM in Chicago, they also 21 provided classes. And then you have New York 22 Air Brake on how their air-brake system works. 23 Basically some other management courses on how 24 to handle people.

Those were sponsored by Conrail or others?

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Both. Some of them were manufacturer's schools 1 that Conrail sent me to, and some of them were in-house programs. 3 Were you ever given any courses or had any training in the handling of hazardous 5 substances? 6 7 Α No. ର 8 Did you ever have any courses or training in 9 waste disposal? No. 10 A Have you been given any instructions through 11 12 manuals or other written materials on the 13 handling of hazardous substances? 14 M.D.S.A, you get a manual and the right-Α 15 to-know. You get a book with it telling you how the right-to-know works. You have to post the 16 17 right-to-know notice on the bulletin board and 18 all the requirements that go with it. So in that sense, yes. 19 20 What do you mean when you say "M.D.S.A."? 21 I think you call them M.D.S.A. sheets. I 22 believe that's what they're called. 23 Is that something published by Conrail? Q 24 Well, if you're a vendor and you provide a can

of something to me to use, you have to give me a

spec sheet that tells me all about it: what the 1 2 contents are, whether it's flammable, whether it's volatile, how you properly handle it, what you do in case of an emergency. Under the right-to-know law, that sheet has then got to be made available and kept on hand at the shop for 7 any employee who wants to walk in and see what they're using. It's a spec sheet. Is that the same as an M.S.D.S. form? That's what I meant. I probably got the initials screwed up. 12 Q. That's okay. When you work in Washington, 13 especially in environmental law, you get used to all these initials for everything. 15

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Okay. Other than the M.S.D.S. sheets, have you had any training in the handling of hazardous materials or seen any manuals relating to that?

- The only other thing is, of course, every Α facility has an S.P.C.C. plan.
- Are you familiar with the S.P.C.C. plan?
- Yes. I have one on my facility, and I have reviewed it, yes, and it's updated every two or three years.
- Q Are you familiar with a Conrail manual No. CT-

225? 1 No. 2 I'm not sure we said what the technical title 3 that you hold now is. 5 Α Well, it's shop superintendent. And to whom do you report? 6 I report to the superintendent of locomotive 7 Α power in Cleveland. 8 What is that person's name? 9 10 W.E. Brooks, B-r-o-o-k-s. Is Cleveland your division headquarters? 11 12 Α No. 13 Do you know why this person is in Cleveland or what office that they're in? 14 Yes. 15 Α What office is that? 16 17 We've reorganized so many times that it gets confusing. The division out here is called the 18 19 Dearborn Division. Its headquarters is in 20 Dearborn, Michigan, which is outside of Detroit. And as of April of this year, my facility, under 21

the reorganization, went to what we call a

system -- the system division. And the system

division has two offices: one for the west end

of the railroad and one for the east end of the

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railroad. The one for the east end of the 1 railroad, obviously, is in Philadelphia. The division headquarters for the west end of the 3 railroad or system shops is Cleveland. 4 5 Q Do you know why it is they split from being a division shop to a system shop? 7 Α Yes. Why is that? 8 Because a locomotive shop in Elkhart was working 9 10 for a division under the car department. The 11 car department couldn't effectively manage the 12 locomotive facility. So they reorganized it so 13 that the locomotive people -- myself and my 14 people -- would report to locomotive people. 15 So you say that this reorganization took place 16 in April? 17 Α Yes. April of 1992? 18 19 Yes. Who did you report to prior to that? 20 21 K.E. Carter. He was the division mechanical 22 superintendent. And he was in Dearborn? 2.3 24 Α Yes.

Do you know what the division mechanical

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1		superintendent's other oversight duties were
2		related to the Elkhart rail yard?
3	Α	He also had the Elkhart car department report to
4		him.
5	Q	Does the car department still report to him?
6	A	Yes.
7	ବ	What about W.E. Brooks, does he have any other
8		oversight duties at the Elkhart yard?
9	A	No.
10	ବ	Who are the people that you immediately
11		supervise?
1 2	A	I have two general foreman: one in Elkhart, one
1 3	·	in Chicago.
1 4	ବ	What's the name of the person in Elkhart?
15	A	L.C. Chandler, C-h-a-n-d-l-e-r.
16	ବ	Why is it that you only have one foreman in
17		Elkhart?
18	A	I have one general foreman in Elkhart and he
19		works nights. He works from basically about ten
20		o'clock at night until about seven in the
21		morning. He protects the high class, high
2 2		merchandise van trains that go down the main.
23		That's his primary duty. The other, I work
2 4		during daytime. Between the two of us, we have
25		six foreman that report to us.

. 1 Q What are their names? You want all six foremen? 2 Α 3 Please. C.B. Harris, spelled just the way it sounds; 4 F.E. Overton, O-v-e-r-t-o-n; W.C. Rose, spelled 5 just the way it sounds; R.E. Chandler. 6 Is that any relation to L.C. Chandler? 7 Q No, not related. 8 9 C.J. Kelly, just the way it sounds; and 10 there's a new guy I just got by the name of J.C. 11 Tighe, T-i-g-h-e. 12 Okay. Is it possible or you to tell me 13 approximately how long each of those people have 14 been at the Elkhart yard? 15 Α I could give you estimates. 16 Estimates are fine. 17 Harris, maybe 18 years. Α 18 Has he always worked in the car shop -- I'm 19 sorry, in the diesel shop? 20 To the best of my knowledge, yes. Α 21 Okay. 22 Α Frank Overton, that would be 14 years at 23 Elkhart. 24 And has he always been at the diesel shop?

He was at the Fort Wayne, Indiana, facility

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No.

1		prior co chac:
2	ବ	I'm sorry. For the 14 years that he's worked
3 .		there, has he been in the diesel shop?
4	A	Yes.
5	Q	And W.C. Rose?
6	A	About four years.
7	ବ	R.E. Chandler?
8	A	Fourteen years.
9	Q	And has that 14 years always been at the diesel
10		shop?
11	А	Yes.
12	Q	What about C.J. Kelly?
١3	A	Maybe ten.
l 4	Q	Okay.
l 5		(Plaintiff's Exhibit 2 marked
l 6		(for identification.)
17	ବ	I'm showing you what's been marked as Deposition
8		Exhibit No. 2.
9		Can you describe what this documents is,
2.0		please?
21	А	It's like looking at an aerial view of the track
2 2		layout of the Elkhart yard.
2 3	ିବ	Is it fairly accurate, to the best of your
2.4		knowledge?
2.5	A	Yes.

Can you tell me, either by one of the numbers 1 2 that's marked on the map or by describing it or marking on the map or by whatever means is 3 convenient, where the diesel shop is located? 4 Yes, number 4. 5 A Okay. Is the diesel shop the only thing over 6 Q which you have supervision? 7 Α No. 8 9 What else do you supervise? 10 (Indicating) To the east and slightly north, there's a new facility that went into operation 11 12 January 1989. It's called the mainline fuel 13 facility, which I have a crew there that works two shifts that fuel, water, lube oil, and sand. 14 First of all, are there any other operations 15 16 over which you have supervision? The only other thing that's really not shown on 17 Α here is where you see Crawford's Ditch into the 18 19 yard, approximately right here where I'm 20 pointing --Would you mark an "X" on there or something? 21 Q 22 Α (The witness complied.) It's approximately 2.3 right there. Where you've marked the "X"? 24 G)

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Α

Yeah.

Q What is that there?

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- A There's a retention pond there. And that is where we have a State of Indiana permit with an outfall going to Crawford's Ditch, where we take our state samples from all water and fluids that come from the engine house as well as various other parts of the yard. Basically it's a storm water area. It's part of the pollution abatement facilities.
 - Q What are the pollution abatement facilities?
 - A Basically, there's three systems. You have a sanitary system in the yard that takes your toilets and your wash basins and so forth, anything of a sanitary nature, and pumps them by way of lift stations over to a pit here close to the retention area close to the dorm or "Y" area, and then it goes on to the city for disposal itself. It's a regular sewage hookup for sanitary. That's one system.
 - Q Okay.
 - A There's a second system which we have a pretreatment permit with the City of Elkhart, and
 it's for the mainline facility. So if any storm
 water -- and that is a combination of storm
 water and sanitary -- that has a lift station

also that pumps it down to the city. And it's basically water that's been treated after the oils have been separated from it. And that goes to the City of Elkhart to the plant. Okay. Go ahead. What's the third? The third facility is all of the collection area Α around the engine house, and that goes to a second oil/water separator, which then treats this oil and water combination, separates the oil out, puts it into a tank, and then it is subsequently picked up and recycled. The clean water then goes down to the lagoon area and is retained down there, tested down there, samples taken before it goes over to the outfall and

> Indiana Department of Environmental Management. They have issued us a permit to do that. we've had that for many years.

a State of Indiana -- it's actually I.D.E.M.,

released to Crawford's Ditch. And that we have

- We'll get into detail about some of these things a little later. But you say that the mainline facility which is just west you said of what's shown on the map?
- East. A

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I'm sorry. East of what's shown on the map? Q

1	A	Yes.
2	Q	Can you make another mark there?
3		(The witness complied.)
4	ହ	You've marked an "ML" where the mainline
5		facility is?
6	A	Correct.
7	ବ	You say that there's a system which takes water
8		from there to the city's sewer system?
9	A	That's correct.
10	Q	How long has that existed?
11	A	January of 1989, I believe.
12	Q	The water system for the collection and the
1 3	·	piping was all put in at that time?
1 4	Α .	That's correct.
1 5	୍ଲା ହ	Do you know if any existing piping was there
1 6		previous to that?
1 7	A	Not to my knowledge.
18	ବ	Let's return for a moment to the diesel shop.
19		You said you did light repairs and servicing of
20		the locomotives there; is that correct?
21	A	Right.
22	Q .	Can you describe the type of repairs that would
2.3		be done?
24	A .	Yes. If a fuel pump is defective, a
2 5		component that weighs about 20 pounds, about 18

inches long, ten inches around -- you disconnect 1 2 the wire, disconnect the pipes. 3 A water pump mounted in an engine weighs about 30 pounds. You disconnect the mounting 5 bolts, scrape off the old gasket, put a new one 6 on, and remount it. Electrical contactors burn up, coils are 7 weak, you remove them and reapply them. 8 9 Electronic components, module cards: 10 trouble shoot them, meters tested and repaired 11 and so forth. We repair and replace those 12 components. 13 Basically, it's a parts changing system. 14 New brushes on motors that are burned out. 15 Things of that nature. 16 Q Okay. Did you inspect all of the locomotives 17 that come through the classification yard? No. 18 A 19 Q Do you inspect any of the cars that come through 20 the classification yard? 21 I inspect no cars whatsoever. The only thing I Α 22 inspect are locomotives. 2.3 Do you inspect all locomotives that come through Q 24 there?

Okay. No. Some locomotives are relayed.

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- Q What do you mean by "relayed"?
 - A That means sometimes the locomotives have been to the yard facility and do not come to my facility and just make a crew change and keep going.
 - Q Okay.

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- A That's it. Some of those I do not look at.
- When do you look at a locomotive? When you inspect a locomotive, what is it that you're inspecting for?
- A We have -- you have some requirements by the

 F.R.A. that say that every calendar day a

 qualified individual must walk the running gear,

 the trucks, to look for cracked wheels, bearings

 overheated, bent rigging, brake shoes that are

 worn out, all the foundation work on a

 locomotive.

You're also required to go above, up into the engine compartment, and inspect for exhaust leaks that may endanger the crew or the operation of the engine or train, check for water leaks, oil leaks, safety devices that are properly working.

They must inspect all the safety appliances on the locomotives: grab iron steps, look at

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the coupling devices, the chains, make sure the headlights work, and so forth.

Go into the cab to make sure the seats are stable, do an air brake test to make sure all the air-brake components are working properly, leakage tests, make sure the engine is properly loaded, make sure there's protective devices also in there, etc., etc., etc.

There's quite an extensive list of things. But that's just to give you some flavor of what

- Approximately how many locomotives do you inspect a day on an average day?
- (Indicating) At the facility here marked number 4, I'm looking at approximately 85 locomotives in 24 hours. At the part marked "ML," the mainline facility, we're servicing approximately 45 locomotives a day.
- Do you perform inspections at both locations?
- (Indicating) In area number 4, inspections are done, yes. In area number 4, generally not. There's usually only two or three out of the 40 that we have to inspect.
 - I'm sorry. You just pointed to the "ML" area and said "area number 4."

- In area number 4, all of them get inspected. Ιn 1 Α area "ML" maybe two or three out of the 40 get 2 inspected. And how do you determine which two out of the 40 Q 5 will get inspected? Because occasionally a consist locomotive --7 that's three put together -- doesn't get inspected in Chicago or some facility in 8 Chicago, comes to this facility, inspection 9 hasn't been performed and must be performed in 10 order for it to continue its trip. And only in 11 12 those cases will we do it. How do you know whether the inspection has been 13 Q 14 performed or not? 15 Look at the card in the cab and it will tell you if it's up-to-date. Because when an inspection 16 17 is performed, you have to indicate on the card the location of the inspection. That's required 18 19 by the feds. 20 When you do this inspection, do you clean the Q 21 cars or the locomotives at all? 22 Α At "ML," no. At number 4, yes. Not all 85 locomotives, just some. 23
- Q Just for purposes of making things a little clearer, let's just stick to the area marked

number 4. We'll talk about the mainline facility a little later.

A Sure.

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- Q About how many of the cars do you clean in a given day -- the locomotives?
- A In a given month, approximately 16 locomotives.

 My production as far as cleaning locomotives

 runs about 16 or 17 a month.
- And how do you determine which of the hundreds of locomotives that you have coming in there each month should be cleaned?
- A There's a portion of the fleet that is assigned to my facility. It's a locomotive assignment.

 And it's normally all the local power that works in this yard and in the surrounding area. Every 60 or 90 days they are required to come in and have some periodic maintenance done to them according to some of the federal regulations and according to some of the policies that Conrail has established. And at the end of all this, the type of periodic maintenance that's being done, -- brushes being changed, components being renewed or checked or whatever -- we wash the locomotives down using class 14. We wash the car bodies down with all the -- well, like you'd

1		wash a car.
2	Q	Are any other cleaners used besides class 14?
3	Α	Just the electrical cleaner.
4	Q	What electrical cleaner is that?
5	A	That's the Inhibisol.
6	Q	Does the class 14 cleaner that you use at
7	<u> </u>	Elkhart also come in black and orange drums?
8	Α	That's correct.
9	Q	And the Inhibisol is substantially the same
L 0		product you described to us previously?
l 1	A	Right. It's a 12-ounce can.
l 2	Q	When you wash down the locomotives, where does
1 3		the do you do that with a hose?
1 4	A	Yes.
L 5	ବ	Do you do that with scrub brushes?
1 6	A	Yes.
l 7	୍ୟ	What happens when you hose it down, where does
l 8		the residue go?
1 9	A	It goes into the drains. Everything in the
2 0		engine house and the surrounding area ends up
21		going to the oil/water separator.
2 2	ବ	Now, you said there were two oil/water
2 3		separators, didn't you?
7.4	Δ	That's correct.

So which of the two oil/water separators does

this go to?

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- A The one at the engine house area. It's just a little bit west of the engine house.
 - Q Is that the one that leads towards Crawford's Ditch?
 - A That's correct.
 - Q Are you familiar with the term mother and slug?
- 8 | A Yes.
 - Q What is a mother and what is a slug?
- They are both locomotives. A mother unit has a 10 A diesel engine in it that supplies all the 11 tractive power to not only itself, the mother 12 13 unit itself, but also to the slug unit. 14 slug unit is basically a frame unit with a pair 15 of wheels all tucked under it and some ballast -16 - weight -- on top. And the mother unit 17 supplies the electrical power for the tractive 18 effort for that unit also. And they are married 19 together as a unit.
 - Q By "married," you mean they're coupled?
 - A They're coupled and the power cables are hooked and the control systems are hooked up and so forth, so they work in unison.
 - Q Does the servicing facility at the building marked number 4 service both mothers and slugs?

- 1 A Yes.
- 2 Q And are the slugs ever cleaned?
- 3 || A Yes.
- 4 Q Are they cleaned on the same schedule that you described earlier?
- 6 ∥ A Yes.
- 7 Q And are any cleaners used on those?
- 8 | A Yes, class 14, same as on the locomotives.
- 9 Q And is the Inhibisol used on those as well?
- 10 | A Yes.
 - Q Does the slug contain a transformer?
- 12 | A No.

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- Q Are there any transformers at the Conrail facility?
 - A The only transformers I know would be in the electrical power distribution for running the shop or running the buildings. I'm sure there are transformers, but those would be the only transformers that I know of. There's none on the equipment, if that's what you're asking.
 - Q Does your shop service any transformers?
- 22 A No.
 - Q Do you know anybody at the Elkhart Conrail yard that would service the transformers at the yard?
- 25 | A The only ones that I know would be what happens

at Bridges and Buildings. That would be Bill 1 2 Martin's group. And, of course, Indiana 3 Michigan Power. Do you ever service refrigerated cars? 4 5 Α No. Are you familiar with the class of chemicals 7 called Freon? I know what Freon is, yes. 8 Α 9 Do you ever use Freon in any of your work? 10 No. 11 Is there any protective gear that's used by any 12 of your people in performing the repairs? Absolutely. 13 14 Do you want me to enumerate? 15 Please. 16 Hard hats, safety goggles, safety shoes, gloves, 17 welding shields and helmets, derails? 18 Derails? What are derails? Q 19 A derail is also required by the federal 20 regulations, that when you're working on a 21 locomotive, you're required to be so many feet 22 away from the locomotive. So you put this 2.3 device up on the track with a blue flag signal 2.4on it, so that if somebody were to come in and 25 try to couple up to that locomotive while you

were working on it, it would derail the equipment and you wouldn't get hurt. That's a safety device. And of course there's aprons there, dust masks for people that want them, ear protection, ear plugs, etc., etc. Are there any safety devices that are associated with the use of any of the chemicals that are used in your operations? We just use the class 14 soap, and I require my Α

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employees to wear face shields, gloves, and some kind of, I don't know, rain coat or apron or something like that that would repel water.

- Has anyone that you've worked with ever come in contact with the class 14 cleaner and sustained any sort of an injury?
- Α No, not at Elkhart, no.
- Has that ever happened at a previous job?
- I seem to remember many, many years ago that somebody getting something splattered in their eyes, but I don't remember because it's been so many years ago. It must be ten or 12 years ago when I was in Enola or Harrisburg, but nothing that would have happened lately.
- I asked you earlier how many locomotives you Q

clean. Approximately how many locomotives do 1 you perform repairs on in a given day, week, or 2 3 month? Α That would be 3.8 per day. 4 Approximately? 5 Q 6 3.8 per day. Α That's your average? 7 8 A Yes. 9 Q And those are just the type of repairs that you 10 were talking about earlier? 11 Α That's correct. 12 When you inspect, do you change the oil? Q 13 Α No. 1 4 When you do the periodic maintenance -- first of 15 all, you do approximately 16 locomotives of 16 periodic maintenance per month? 17 That's correct. Α 18 Q When you do that, do you change the oil? 19 No. Α 20 Q Approximately how often do you change oil in 2 1 locomotives in your shop on a given locomotive? 2.2 Α Never. Never change the oil at the Elkhart 23 diesel shop. Oil is changed on an engine only on 24

condition. A sample is taken. It's sent to a

A spectra analysis is performed. And 1 based on the components of that testing, it's 2 determined whether the oil has to be changed or 3 And it also tells you about the internal not. 5 workings of the engine. If you have bearings or wrist pins or various components that are 6 7 starting to fail, you get trace elements in the And only when the oil becomes contaminated 8 9 with fuel or becomes emulsified do you drain it 10 and renew it. 11 And that's just not done at your shop? Q Not done. 12 Α 13 Okay. When you purchase materials for use at Q 14 your shop, how do you go about doing it? 15 I call up the material management people, 16 particularly the guy who is in charge of store house right now is Bill Horvath, and I will 17 18 request from him or his staff what materials I 19 And then he will secure it from wherever, 20 various vendors or whatever. 21 Do you keep any records on the materials that 2.2 you order in this manner? 23 Some, yes.

Q What records are those? Describe them.

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A My foreman keeps a log with a date and an

account reference number, which is not a Conrail 1 I.D. number, and a description of the component 3 that I told him to get me. And he will write it down with the number, call up material 5 management, tell them what we want. And that way I have some personal record for us so we 6 know what we did order a certain part or we 7 didn't order it. It's just a running log. 8 9 How long do you keep them? 10 About a year, maybe a little longer. When the 11 clipboard gets stuffed, you just pull the bottom 12 half off and keep going. 13 Interesting records retention. 14 No use for the records at all other than to jog 15 our memory of what we ordered. 16 Okay. Do you keep records of locomotive Q 17 repairs? 18 Α Yes. 19 What types of records are those? Q 20 Of course you have check sheets where you have 21 various items that have to be performed during a 22 periodic maintenance. If a guy signs off that 23 he did this and that and so forth, that's a

We also have records that are required by

check-off sheet for periodic maintenance.

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the feds, showing that you performed a daily 1 2 inspection on locomotives. Not only are they dated in the cab, but you also have to make out 3 a document and keep it on file for 92 days. 5 There's all kinds of records. When we make repairs, you document it and then you put it into a computer system that generates the 7 8 history for the locomotive and what repairs were 9 made and so forth. What's the name of that computer system? 10 We call it T.M.S. 11 12 Q That's okay. That's what we call it. 13

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There's all kinds of different names. There's L.I.D, locomotive -- or LD-2, I'm sorry, locomotive distribution. There's T.M.S for the trains. There's L.R.Qs. for histories. There's all kinds of various things. The slang is status B-40; that's what we call it. That's not what it is anymore. Now it's an AT&T now.

What type of operation is performed there?

Let's move to the mainline facility.

The people there dispense fuel oil into the Α tanks of locomotives, add water to the engine if required, add lubricating oil to the engine's

2 locomotives. 3 Fuel oil is diesel fuel? Q Number 2 diesel. 5 Q Do you add anything to that diesel fuel? The only thing that's added to it is alcohol 6 during the wintertime operations, and that's 7 done with a metering pump at the pumps 8 9 themselves. It's one gallon per thousand. 10 Do you know what type of alcohol that is? I did, but I don't know what it is right now. 11 12 I'm drawing a blank right now. It's wood grain 13 alcohol. I don't know the name of it offhand, 14 but it's available. You can find out fairly 15 quickly. 16 You also said you add water? 17 Yes. Is there anything other than water in there? 18 19 We just add water. That's it. City water. 20 You don't add any chemicals to the water or do 21 you? 22 Α Well, the only -- no, not there. Not there, no. 23 Do you add chemicals to the water any other Q 24 place? 25 Yes. When you're down at the engine house Α

crank case if required, and provide sand to the

during periodic maintenance, you may have to add a trace element we put in the water called borate. It comes in cubes about so big (indicating). And it's put into the water itself in the cooling system. It's used as a trace element in there so when you take oil samples and send them to the lab, if you have an internal water leak, it shows up as borate. that's how it's used.

But down there, no, it's water.

- And lubricating oil, what's that?
- It's basically a multi-grade oil that's similar to what goes in your automobiles, except I don't think it has detergents in it, and I don't know but it may have a little different specs on it than what you put into an automobile's gasoline engine because it's for diesels. But it's basically a 10W30 multi-grade level oil.
- Is there a trade name of the oil that you use?
- Not that I know of. I'd just say, Give me lube oil.
- And do you add anything to that lube oil?
- A No.

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Do you ever empty the lubricating oil from locomotives?

1 | A No.

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- Q And finally, the sand what kind of sand is that?
 - A Well, it's just -- it's sand that's used to put down for wheels to increase the -- or I should say to keep the wheels from slipping on the rail, to increase the tractive effort. And it's just basic sand. I know it has some specs on it, that it's got to be a certain granular size and so forth, but it's just basically sand that you see on the beach.
 - Q Okay. Do you add any chemicals to the sand?
 - A No.
- 14 | Q Are cleaners used at all at that facility?
- 15 A The mainline facility?
- 16 | Q Yes, the mainline facility.
 - A No, other than your hand soap, you know, that you use to wash off your hands. There is bar soap. Those are the only soaps that are used down there.
- 21 Q Is the Inhibisol used down there?
 - A No, it's not used down there. No, none at all.
 - Q And the class 14 is not used down there?
- 24 A No. They can't use soap down there.
- $25 \parallel Q$ When you just said that people use stuff to

clean their hands, do those people just used 1 hand soap or is there a special cleaner used? It's basically hand soap. You can use regular 3 Α hand soap or a lanolin-based soap. It's a waterless soap they call it. Those are the two 5 soaps that are used 6 Are you familiar with something called Safety 7 0 8 Clean or Zed or Zep? 9 I've heard of them, but I don't use them. Α 10 You don't use them? 11 Α No. 12 Have they ever been used in any of the 13 facilities that you've worked in? Not that I'm aware of. 14 Are the fuel lines or any of these dispensers 15 16 you talked about at the mainline facility, are 17 they ever cleaned? 18 Α The fuel lines, no, are not cleaned. 19 Are other parts of the dispensers cleaned or the Q tanks? 20 21 No. The fuel lines and all the meters and the 22 nozzles it's not necessary for them to be 23 cleaned, no, not at all. The one large tank for the fuel, several years ago I know that was 24 2.5 cleaned out and refurbished and painted and the

inside cleaned out and so forth, but none of the 1 2 lines. The lines have been tested, but that's 3 about it. Do you ever reclaim oil at either of these facilities? 5 Yes. The oil/water separator and the holding tank and the mainline facility you also have a holding tank, and whatever you separate out of 8 9 your oil/water separator is obviously petroleum 10 products and goes into a tank, and it's subsequently recycled. 11 Well, first of all, what do you mean by it's 12 Q "obviously petroleum products"? 13 14 Well, yeah, it is an oil. That's what an 15 oil/water separator does. It takes the oil out. 16 Do any other chemicals or materials other than 17 oil and water make their way into the oil/water 18 separator? 19 A Sure. You could get lubricating oil, 10W30, 20 it's a heavier oil. You could get maybe some of the borate if you have a water leak and that 21 22 borate might go into this system and would end 23 up at the oil/water separator. The soap. 24 Would it be fair to say that anything that found Q 2.5 its way onto the floor of the diesel house would

make its way into the oil/water separator? 1 2 If that's what you're getting at, yes. 3 Q So when these things go into the oil/water separator, then what happens to them? All the hydrocarbons, petroleum carbons, float 5 Α to the top. And then there are two scavengers 6 that float in this oil as well as two skimming 7 8 belts that go through the oil, picks it up, 9 leaves the water but picks up the oil products and puts it into this holding tank. 10 11 Q It puts the oil and the petroleum products into the holding tank? 12 Yes. 13 Α It's an area of hoses and pipes and troughs 14 15 and etc. Can you tell me what a scavenger is? 16 Sure. A scavenger is basically an oil-recovery 17 Α 18 device. It floats on top of the product, has a special filter in it that allows oil to flow 19 into a little holding area, keeping the water 20 21 out. It's a special material in the filter. 22 And then when this bowl fills up with oil, it 23 kicks a pump in and takes it to the tank, and then it does the cycle all over again. It runs 24

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continuously.

Q Okay.

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- 2 A That's the way it works.
 - Q Can you describe for me a skimming belt?
- 4 Α A skimming belt is a stainless steel belt that's a band that's about eight feet long. It has a 5 6 pulley at the top and an idler at the bottom. 7 And this belt goes around in a circle like this (indicating), and the effluent, the liquid, lays 8 against the belt -- or I should say that this 9 10 belt is immersed in it. Through friction between the various products of oil versus 11 12 water, this belt picks up the oil product, 13 allows the water to stay down, and comes over to 14 a wiper, and then it wipes the belt clean and then drops the oil product into a trough that 15 16 goes to the tank and still leaves the water 17 intact.
 - If I understand the system correctly, would it be fair to say that anything that was lighter than a hydrocarbon product, would find it's way into the holding tanks?
 - A I don't know.
 - Where is this holding tank located? Is it above ground or below ground?
 - A Yes, this one here is underground.

1 Q Is it ever inspected for leaks? 2 1 don't know. But it is not the custom or duty of anyone in 3 your shop to inspect it for leaks? 4 That's correct. I've never inspected it for 5 Α 6 leaks or had any reason to believe it was 7 leaking. 8 What happens to the contents of this holding 9 tank? There is an oil recycling company in 10 Α 11 Indianapolis called Heritage Environmental. 1 2 They come in at your request and pump this tank 13 out and recycle the oil. 14 How do you know when to call Heritage Q 15 Environmental? The tank has a gauge on it, and I have somebody 16 on staff that checks the gauge on a regular 17 18 basis. And when it gets to a certain level, we call them, and they come get it. 19 20 Other than calling them, do you have anything to Q 21 do with the emptying of the tank? 22 I don't understand your question. Say it again. Α 23 Q I'm sorry. You said you called Heritage to 24 empty this tank, correct? 25 Α Yes.

Other than calling them and just sort of seeing 1 2 them do that out there, do you have anything 3 else to do with the emptying of this tank? No. I don't hook the hoses up or anything like 4 Α that. They come in, have their own hoses, hook 5 them up, and suck all the oil out of the tank. 6 Did you ever observe or have you ever heard of a 7 8 leak or spill or other release in the 9 environment of anything that they were emptying 10 from that tank? 11 A No, I know of none. 12 Q What happens to the rest of the effluent that 13 doesn't find its way into the holding tank? 14 Yes. It travels -- after it goes through this 15 separation process, it goes into a pipe that 16 runs from the oil/water separator down to the 17 lagoon area. 18 Q And that is the area you've marked with an "X" 19 earlier? 20 That's correct. 21 At that point it goes into a small area 2.2 with a baffle plate. And if you were to have 23 any small residuals of petroleum products, it 24 would be held back by that baffle plate. And

there is another skimming belt there. This is a

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little different style. And it removes those 1 oil products from there and puts them into 2 3 another tank. The water goes under the baffle plate -- the clean water -- and goes into a large lagoon. That's a holding, a retention 5 From there it goes to another baffle 6 7 plate and then to a weir. And each one of these 8 have compartments. And there job is, of course, 9 to hold back any oil products that might short 10 circuit or bypass through here. Those are 11 cascaded, with pumps, backwards upstream to the 12 large belt that removes them. And then from 13 that weir, it goes to an outfall to a culvert to 14 Crawford's Ditch. And it's at that point that 15 we're required by the state to draw samples to 16 satisfy their permit requirements.

- Q Okay. When you draw those samples, do you test them for their chemical components or do you send them out to a lab to do that?
- A I send them to a lab.

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- Q Do you have anything to do with the sampling of those, other than sending them out to a lab?
- A Other than taking the sample and sending them out to a lab and getting the results, that's it.
- Q Do you know the name of the lab that you send

those to? 1 2 EIS Engineering in South Bend. Α 3 You said that there was a second holding tank? Yes. Α And that tank also, through this procedure, 5 would fill up with hydrocarbons? 6 That's correct. I've only had to empty that 7 8 once -- once in the five years. Only a very, 9 very small amount of it gets there. 10 Can you describe for me in a little bit more Q 11 detail what a baffle plate is? 12 Okay. You have a body of water. If you just Α 13 take a plate and immerse it down -- how do I want to say that? -- and immerse it down into 14 1.5 the water like this (demonstrating) into the 16 water itself, anything that's lighter than the 17 water would float on top. And if you were to 18 create a flow, the lighter-than-water components 19 would stay up here and the water would go under 20 the baffle plate and continue. And by doing 21 that you're able to separate water and oil from 22 each other.

And the area where that oil collects is

periodically skimmed?

Yes, continuously.

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1 Q Do you know if the material that's removed from 2 the holding tank is ever tested for chemical analysis? 3 No. it's not tested by me. Whether the person 4 5 who picks it up tests it, I don't now. I'm aware. 6 Before this mainline facility was built, -- I 7 8 think you said that was 1988 or '89 -- was the 9 refueling-resanding-watering operation performed 10 at the Elkhart rail yard? 1 1 Some of it, yes; some of it was done in Chicago. Α 12 Which parts of it were performed at the Elkhart 13 yard? 14 Pardon me if I use some railroad lingo. 15 performed on pixie trains with high class merchandise. Those are not necessary anymore 16 17 and can be done at that facility. Some of the other trains that go down the mainline were 18 fueled, watered, and sanded at the facility 19 20 there in Chicago. That facility has since been shut down. 2.1 22 Okay. 23 So all that work moved -- that servicing Α 24 operation moved from Chicago to here. 25 . Q What did you do with the 55-gallon drums once

their contents have been emptied? 1 . Empty barrels are returned to the material 2 management people for disposal. I don't know 3 what they do with them, whether they recycle 5 them or what. Do you return them as soon as one is emptied, or Q 6 7 do you stock up a certain number of them before. returning them? 8 Normally, what happens is when you get two empty 9 10 drums, you'll pick them up and sit them in the 11 back of the truck. They'll sit wherever they're 12 at empty. You'll pick them up, put them in the 13 back of the truck, and take them to material 14 management. 15 And approximately how many in an average working 16 period, approximately how many drums of number 17 14 cleaner do you use on an average? 18 I don't know, but I can give you a ballpark Α 19 estimate. I would say the engine house would probably use about eight drums a month. That's 20 21 just an estimate. 22 Okay. And approximately how much of the 23 Inhibisol do you use in a given month? I would probably say one case of 12. I think 24 Α 2.5 there's 12 cans in a case. Whatever, they are

1	-	12-ounce cans. I would say about a case a
2		month.
3	Q	And what do you do with the empty cans of
4		Inhibisol when you are finished with them?
5	Α	When they're empty and nothing sprays out of
6		them, they just go in the trash.
7	Q	By "the trash," do you mean a dumpster?
8	A	Yes.
9	Q	Where is that dumpster located?
10	A	It's located at the engine house itself.
1 1	Q	Who picks up the waste material in the dumpster?
1 2	A	HIMCO.
1 3	ବ	Imco?
1 4	A	HIMCO, H-I-M-C-O.
1 5	ବ	And where are they located?
16	A	They're here in St. Joe County and in Elkhart
17		County also. They are a trash-hauling service.
18	ବ	Approximately how often do they empty the
19		dumpster?
20	A	Once a month.
21	ବ	All right.
2,2		MR. JAFFE: This seems like a good
23		place to stop if you want to break for
2 4		lunch.
2 5		MR. CUNNINGHAM: Fine.

MR. JAFFE: Let's plan to come back 1 about one o'clock. I don't think I'll go too long this afternoon. 3 (Recess taken.) BY MR. JAFFE: 5 You were telling me earlier about the oil/water 6 7 separator that leads from the diesel shop 8 building to Crawford Ditch. You also said there 9 was another oil/water separator leading from the 10 mainline building; is that correct? 11 Α That's correct. 12 Can you describe that oil/water separator to me, 13 please? Sure. On that facility at the mainline, there 14 15 are collection pads that collect storm water as 16 well as any spillage that you would have from an 17 engine during servicing or any oil leaks or 18 anything like that. And that goes through 19 several stages.

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The first stage is it separates out the Obviously, you get some sand and solids, and it goes through a sand separator or they call it grit chamber, and it removes sand.

And then the fluid goes in to a separator which has three compartments in it. The first 1 1

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compartment has a combination of oil and water. The oil is separated at that point and goes over a baffle plate on the inside into an oil chamber. The water goes to the other chamber on the end of the tank which is the clean-water chamber. The oil that is collected in the one oil chamber is then pumped out into an aboveground tank and is then subsequently picked up and recycled. The clean-water chamber has a hydrocarbon detector in it, a safety device, that will detect any oils that could possibly get past the separation process. And it has an alarm system on it and basically shuts the whole plant down if you have an upset or a malfunction in the operation.

That water then travels to a lift station.

In that lift station is two large pumps. And in that lift station also is a second hydrocarbon detector, and it is set at a much more sensitive level for detecting hydrocarbons.

Am I overwhelming you with too much detail?

Q Not at all.

Okay. At that point, these pumps will pump that water to the city -- to the city water system.

It goes through a meter so we know how much

1 water we're pumping to them. That is also tested on a monthly basis and the results sent 2 3 to the city, and we have a pre-treatment permit with the City of Elkhart to do that operation. 4 That's as simple as I can put it. 5 That's good. Let me just actually go back and 6 Q 7 ask you a couple more details. 8 A Sure. 9 Q You said there was a grit chamber which removed 10 sand? 11 Α Correct. 12 Is that sand primarily the sand that is added Q 13 through the sanding operation that you have to 14 refuel the sanding tanks on a locomotive? 15 A That's correct. 16 What is done with that sand when it's collected? Q 17 It's kept on the property. We have it there 18 right now. We just keep it right there. It's 19 just sand. What type of container is it collected in? 20 21 A We have a dumpster, and it goes into the 22 dumpster and the sand collects in the dumpster. 23 It goes directly from the grit chamber to the Q 24 dumpster?

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That's correct.

diesel shop to Crawford Ditch?

A No.

Q Are there any safety precautions to prevent hydrocarbons or other materials from -- let me rephrase that.

Other than the testing that is done at Crawford Ditch pursuant to the permit for clean water discharge, is there any other testing or detection of any chemicals or other materials that are in the oil/water separator that leads to Crawford Ditch?

- A Yes, there is a human one. I have a maintenance man who makes a daily or couple-times-a-day cursory inspection of the lagoon and separators area to make sure there is no malfunctions or unusual conditions detected that would indicate we're having any problems.
- Q So that would detect, for example, a solid material which was caught in the gears?
- A That's correct, or oil or anything else.
 - Q But that would not detect chemical combinations of that water?
 - A I don't know what chemicals could be in there, but that's correct.
 - Returning now to the system leading from the mainline facility, that is pumped to the city

- sewer system by what system?
- 2 A It's called a forced main. That's the name of the system.
 - Q And how does the forced main work? Does that build up pressure?
 - A It's basically just a transfer operation. You fill up a chamber with effluent. When it gets to a certain level, it trips a float, and the pumps fire up, and it lifts the product up and then pushes it down a pipe. You need a forced main when you don't have a gradient of pipe that runs downhill. You have the product over here and the pipe is up here (indicating). To get it up here, you have to force or pump it up there.
 - Q And the testing that is done at the end of this system, is that the only testing that is done pursuant to the pre-treatment permit?
 - A At that facility?
 - Q At the mainline facility.
 - A Yes. It's tested every month, sent to the lab, a copy provided to the city as well as me. And then also the city does its own testing twice a year. They do a once-a-year scheduled test and once a year they do a random test. And every

time they do that, we accompany them. And they 1 2 must provide us a split sample when they do it. 3 Have either one of these oil/water separator 4 systems ever been checked for leaks, to your 5 knowledge? 6 The mainline one was cleaned and inspected Α 7 about two years ago. 8 What were the results of that inspection? Q No defects found. 9 Α 10 Who performed that inspection? Q 11 Α It'll come to me in a minute. I can't think of 12 it right now, but it's in the documents that I 13 submitted when they asked for maintenance 14 records. It's an outfit out of Toledo. They're 15 an environmental maintenance company. 16 Do you know who at Conrail was in contact with Q 17 that company? 18 Α Me. 19 Q They were hired by you to do this? 20 Α Yes. 21 Is it fair to say that all liquid that found its Q 22 way to the floor of the mainline facility would 23 also find its way into this oil/water separator 24 system?

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Yes.

Why is that tank above ground, do you know why?

It was installed that way because we prefer to

have our tanks above ground and have them pre-

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- diked in case something goes wrong with them.

 Are you aware of any other below-ground stora
 - Are you aware of any other below-ground storage tanks other than the one -- the two that you described that were associated with the Crawford Ditch oil/water separator?
 - A That's it, only those two.
 - Q Are any of the products that you use in your operations stored below ground?
 - A No.

- Q What is the name of the union or unions which the people who work for your shop belong to?
- A In brief: the machinists' union, the International Association of Machinists and Aerospace Workers; the electricians are the I.B.E.W., the International Brotherhood of Electrical Workers; foremen are the Railway Supervisors Association; and the laborers are the Firemen and Oilers Union, I.B.F.O.F., I think.
- 20 Q Do you know who the local president or chairman is of each of those unions?
 - A I know their representatives, yes. I know their local representatives.
 - Q Can you tell me who those are?
 - A Sure. For the electricians, his name is Ralph

Holcomb, H-o-l-c-o-m-b; for the machinists, it's 1 2 K.H. Lake, L-a-k-e; for the foreman, I believe 3 it's C.D. Harris, or he's an acting 4 representative. I'm not positive. And there 5 was one more. There was one for the laborers. 6 Yes. Q P.W. Kern is their local chairman. 7 Α 8 Is that C-u-r-d? Q 9 No, it's K-e-r-n. Α 10 Q Okay. We talked previously about how you would 11 go about ordering materials that you would be 12 using out of the Conrail catalog. 13 Did you ever order products outside of that 14 catalog system? 15 Α Yes. 16 And what materials were those? ର 17 Hand soap. Α 18 Q Hand soap? 19 Α Hand soap, sure. 20 Anything else? Q 21 No chemicals, no. A 22 Are you familiar with a chemical called Q 23 trichloroethylene, also called TCE? 24I'm not familiar with it. I've heard it used Α 25 before.

In what context? 1 Q 2 I've seen it in a newspaper, in local A 3 newspapers. Do you know if trichloroethylene has ever been 4 used at the Elkhart facility? 5 6 In the five years I've been there, I have no Α 7 knowledge of it ever being used, none 8 whatsoever. 9 Okay. Have you ever heard of something called Q 10 carbon tetrachloride? 11 Α Sure. 12 In what context have you heard that? 13 Same thing, in the newspapers. Before that, I had never heard of it. 14 Has carbon tetrachloride ever been used in the 1.5 Q Elkhart facility? 16 Not to my knowledge, none whatsoever. 17 Α 18 Are you familiar with Freon? Q 19 Α Yes. 20 And are you familiar with whether Freon has ever Q 21 been used -- whether any type of Freon has ever 22 been used at the Elkhart facility?

Well, there's ice machines there that have Freon

in them, but I don't have any part in doing

that. It's a refrigerant, but I've never

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actually seen it being used, no. 1 You've never seen tanks of Freon? 2 Q . 3 Α No. 4 And none of your maintenance operations require 5 the use of Freon? 6 Α None whatsoever. 7 Other than the sampling that is done in 8 conjunction with the two oil/water separators, 9 does anyone in your shop do any environmental 10 testing? I don't know if this is environmental testing, 11 Α 12 but I have one guy that once a week I have him 13 do a pH check at the outfall down here, just 14 checking the pH on the water because that's one 15 of the requirements is keeping track of the pH 16 (indicating). 17 Are you aware of any environmental testing 18 that's being done by anybody else at the Elkhart 19 facility? I can only tell you what I've seen in the past 20 21 four years or so. I've seen people that came on 22 the property and identified themselves as 23 working for the E.P.A. as well as G.T.I. --24 Groundwater Technologies, Incorporated -- and 25

putting wells throughout the Conrail property,

taking samples of the ground, samples of the
groundwater in all areas, including my area.

And the only reason I know that is because
when they show up in my area, they get
challenged: Who are you? What are you doing

the office? Da, da, da, da, da.

And they have gone around the engine house, around the oil/water separators, and throughout various parts of the yard, around the lagoon, the tanks, and taken samples.

here? Who gave you permission to be here?

- Q Do you know what types of samples they have taken?
- A No, I can't tell you that. All I know is that they took samples. All I can tell you is I know that the cores that they pulled out they put in drums and capped them off and so forth.
- Q When you say "the cores," what kind of cores are you talking about?
- A Well, the soil; I call them cores. They go down and punch a hole in the ground and you up with a core of dirt, and they stick it in a drum.
- Q Do you know approximately how long these cores were?
- 25 A No.

- Q When someone is taking one of those cores, are you aware of whether they consulted you or anyone else to determine whether there is something below ground that they might be punching into?
 - A Yes. They contacted me when they were in my area, and they asked me if I knew where the underground utility lines were. Some of them I did; some of them I didn't. They also had to contact the buildings and bridge group down there, the yard maintenance people. And they, many times, had to come up and determine whether or not there was anything below ground before they started drilling. So, yes, they provided a service to these folks at the time.
 - Q And do you know if there were any maps that one could consult to find out the underground utilities and piping?
 - A There are some, yes. Sure, there are some maps available.
 - Q Do you know where those maps are kept?
 - A Primarily they are kept in Philly. There's engineering down there, -- design and construction -- and they have archives of all the construction prints, plans, blueprints for

the entire Conrail system in all the various 1 2 yards. 3 Q Is there anything like that kept at the Elkhart facility? 5 Α I have a set of prints that show the new 6 facility that I kept only because I wanted to 7 know for my own personal use, so I made sure I - 8 got a copy. As far as the rest of the facility, 9 there is none that I know of that I have in my 10. possession for the place. Apparently my 11 previous managers didn't think it necessary to 12 keep them. For some reason they just didn't. I 13 don't know why. 14 Okay. That brings up a good point. Q 15 Who was your predecessor? Dave Devers, D-e-v-e-r-s. 16 Α 17 Q And do you know where Dave Devers is today? No, I don't. 18 A About how long was Dave Devers there? 19 Q 20 I can't tell you. I don't know and I don't want 21 to guess. I really don't know. 22 Okay. Do you know if he's still working for Q 23 Conrail? 24 No, he's retired. Α

And who was Dave Devers' predecessor, if you

-		RIIOW.
2	A	A man named Mellens, M-e-l-l-e-n-s, Dan Mellens.
3		He's retired also.
4	Q	And you don't know where he is?
5	A	No.
6	ବ	And do you know who Bill Mellens' predecessor
7		was?
8	A	No, I don't.
9	Q.	Do you know how long Bill Mellens was there
0		approximately?
. 1	A	No, I don't.
. 2		MR. JAFFE: Mark this as an exhibit,
. 3		please.
. 4		(Plaintiff's Exhibit 3 marked
. 5	·	for identification.)
. 6	ବ	I'm showing you a large approximately two
. 7		foot by three foot print, the lower right-
. 8		hand corner of which has been copied and has
. 9	·	been marked as Exhibit 3 for the deposition.
0		Have you ever seen this before?
1	A	Yes.
2	િ	Do you know what this is?
2 3	A	Yes.
4	ବ	Can you tell me what it is?
5	A	Sure. It's a layout, a site plan of two

facilities. The top half being the area around 1 the Elkhart engine house, and the bottom section 3 being the mainline fuel facility. And it appears it's got the buildings and the tracks and possibly some of the equipment and some of 5 the utilities laid out. 6 7 Q And to the best of your knowledge, is this an 8 accurate description of the way things are there 9 today? 10 It looks accurate, yes. Α 11 Q In the top half there are two tanks, one marked 12 Tank No. 1 and one marked Tank No. 2. 13 Α Yes. Can you tell me what those are? 14 They are both No. 2 diesel. (Indicating) This 15 A 16 is one with a 300,000-gallon capacity; and this 17 one is the new installation of 750,000 gallons. 18 They're already diked. These are diking 19 indications (indicating). 20 Q Okay. Why was the new diesel storage tank 21 erected? 22 So that we would have enough fuel on hand to Α 23 fuel trains at the new mainline facility. 24 So this tank that's near the diesel shop

actually is the storage tank for the mainline

facility?

- A I will make it brief and short. Before the new facility was put in, this was the only tank supplied fuel for the existing diesel shop.
- Q Tank No. 1?
- A Tank No. 1.
- Q Okay.
 - A When the new facility was built, this small tank did not have enough capacity to supply fuel product for both places. Therefore, it was necessary to install a second tank of 750,000 gallons so that you could stock more diesel fuel on hand to meet your demands. That raised the capacity to a little over a million gallons. And now these two tanks supply fuel for both facilities.
 - Q Okay. How is the fuel from the No. 2 oil tank supplied from the tank to the actual fueling operation?
 - A (Indicating) These two tanks are tied together with a series of pipes and valves. And you can tie the two of them together and go to this pump house and come down this fuel line to the mainline facility. Or you can come off this same manifold and come over here to the engine

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2 4

house to the pumps inside, and they will provide 1 2 fuel to the fuel pad area for dispensing. 3 (Plaintiff's Exhibit 4 marked for identification.) 5 Q Can you tell me if you've ever seen this document before? 6 7 Α Yes. 8 Q This is again another two-by-three-foot 9 enlargement, the bottom left-hand corner of 10 which has been copied and marked as Exhibit No. 11 4. 12 What is this document? 13 A This too is a site plan, but it's in much 14 greater detail of the engine house territory. 1 5 Again, it shows the buildings, various tanks, 16 equipment, utility lines, tracks, etc. 17 Does this map show the drainage system that you Q 18 were describing earlier that goes to the 19 oil/water separator? 20 Part of it, yes. A 21 Q What part of it does it show? 22 A (Indicating) Right here where it says, Existing 23 18-inch pipe. 24 Q And you're pointing to the far left-hand side? 25 That's correct. Α

- 1 | Q Go ahead.
 - And if you follow that backward, you will see that it goes up to the engine house to the far east end of the block marked, Existing Diesel House Shop. This is the pipe that carriers over to the oil/water separator from the engine house (indicating).
 - Q Okay. It appears also to be what is marked as 12-inch pipe leading from the sand trap and M.H.

Is that also part of the same drainage system?

A Yes.

That goes in to the east end of the building. And then there's a pump there that lifts the effluent up and pushes it down to the oil/water separator.

Q In that same line that you've been describing as part of the drainage system, there are circles drawn.

Do you know if those circles represent anything?

- A I believe they are manhole covers. Either they're manhole covers or manholes with a grate on them for collecting storm water.
- Q And storm water is collected through these

2 4

1		manholes that leads into those pipes?
2	A	Yeah. That's my understanding.
3	ହ	But it's a fact that they are storm water
4		collection manholes?
5	A	Yes. I know for sure that these right here are
6		grates that collect storm water. I don't
7		remember seeing these on the property
8		(indicating).
9	ବ	When you say they collect storm water, do they
10		collect storm water from a certain basin of the
1 1		facility, or do they only collect storm water
12		from the building itself?
1.3	A	These are all on the outside, in between the
1 4		tracks, so they would collect whatever melted
1 5		snow, rain, water, or whatever that would be in
1 6		those areas, so it would be outside the
1 7		facility.
18	ବ	If there were a spill of a liquid somewhere in
19		this general area, would that also collect in
20		these storm drains?
21	A	Yes.
22		(Plaintiff's Exhibit 5 marked
2 3		for identification.)
2 4	ବ	All right. One last one. Again, I'm showing
2 5		you approximately a two-by-three-foot blowup of

right-hand corner as Exhibit No. 5. 2 3 Have you ever seen this document before? 4 A No. 5 Q From looking at it, can you tell me what it is? Yeah. It's another site plan of the Elkhart 6 Α 7 locomotive terminal, and it looks like the surrounding area too. 8 9 Q Now, to your knowledge, was this depiction 10 accurate? 11 A No. 12 Q What is not accurate about it? 13 Well, it doesn't have the new tank on it for one A 14 thing and the new utilities that go with it. 15 also doesn't show -- it shows what I believe is supposed to be the oil/water separator, but it 16 17 does not show the line going to that, so that's 18 incorrect. 19 There are some track changes here. 20 (Indicating) This track -- wait a minute. 21 looks to me to be a proposal print for putting 22 in the new track for the tank train to come in 23 there, so the track part of it may be accurate, 24 but some of the utility stuff and some of the

equipment is missing on here.

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something that's been marked at the bottom

Q At the left-hand side is something marked 1 .2 "Crawford Ditch." 3 Do you see that? 4 Yes. Α Is that an accurate depiction of Crawford Ditch? 5 Q No, not to my knowledge. Crawford's Ditch is 6 Α 7 about a half mile west of where that's shown. All right. Well, then, let's just forget this 8 Q 9 one. 10 Are you familiar with a structure called 11 the freight engine house? No. It's never been called a freight engine 12 Α 13 house here. 14 Q Are you familiar with something called the wet 15 cinder pits? 16 Α No. Or just called wet cinder pits? 17 Q 18 Α No. 19 Where's the diesel washing slab located? Q The engine house, inside. It's concrete with a 20 Α pit and drains. It's where we do the 21 22 predominance of our washing and inspecting of 23 diesel locomotives. Right there. 24 And the surplus wash-off liquids, where do they Q 25 go?

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A You get it in a bag. I think it's a 50-pound bag. You put it in a metal garbage container,

and when you clean batteries, you take a little 1 2 cup of this, sprinkle it on the batteries, let . 3 it sit for a while, and then wash it off. Q Is that ordered through the normal catalog 4 system? 5 6 Α Yes, it is. 7 MR. ERMILIO: To help out our court reporter, let Peter finish his question 8 9 before you begin answering. Otherwise, 10 she's trying to type for two people at 11 once. 12 THE WITNESS: Sure. 13 BY MR. JAFFE: 14 Are you aware of any spills or accidents or 15 leaks which might have caused a release of any material into the environment? 16 17 Α Hazardous material? Q Hazardous material. 18 19 There's only two that I know of. One is a 20 matter of public record. And that was at the 21 mainline oil/water separator. It was an upset 22 in the operation during a maintenance of the 23 oil/water separator. As a result, a combination 24 of some oil and water went to the city line and

was supposed to go to the city pollution

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- abatement facility but did not. It ended up going to the St. Joe River. Of course, it was reported and it was cleaned up. It made all the headlines locally, and it's a matter of public record.
- Q You said there was a second -- well, first of all, when did that happen, do you know?
- A I would say '89, early '89, May of '89. That's just an educated guess, but that's about right.

 It was either May of '89 or May of '90, so don't hold me to it exactly.
- Q But it was May?
- A Yeah, I'm pretty sure.
 - Q Okay. You said there was a second spill?
 - A Sure. Earlier in the year there was a very small amount. We had a valve, a ten-inch gate valve, that sustained a crack in the casing, and it was caused by some uneven torquing on the mounting bolts. Behind that valve was 750,000 gallons of No. 2 fuel. It did not burst and turn loose or we would have had major problems. It held, but the valve dripped. We had a drip like you would have a faucet in the house would be dripping. And it was found fairly soon after what we figure when it cracked.

And as a result, we put some -- we started, of course, collecting the drippings and collected them in a bucket and pouring it in a 55-gallon drum. So we took measures to contain what was being leaked out of the valve. And also we shut the valves off going to that particular pipe and drained that line and then renewed the valve. It was an all-night operation.

And there was, oh, I don't know how much got on the ground, maybe 20 gallons, 50 gallons, 60 gallons. I'm not sure, but it was a very small amount. And it was reported, and it was taken care of the way it was supposed to be.

- Q Okay. When you say "it was reported," how was it reported?
- A It was reported to the Dearborn Division operations desk.
- Q Is there a particular type of form that is used for that report, or is that just an oral report?
- A Pick up the phone and you call the desk.

 Whoever you get on the desk, you give them a verbal report.
- Q Did you ever make any sort of written report of that?

1 A No.

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- 2 Q Do you know if Dearborn makes any sort of written report of it?
 - A I can't answer for them. I think they do, but
 I'm not sure. I can't answer for them.
 - Q What steps were taken, if any, to clean up following, for example, that second leak that you talked about?
 - A I don't know other than I can tell you that there was new stone. Whether there was some ground removed and then the new stone, I don't know. But when I went out there, I observed they had new stone down there, so it appeared that something was done.
- 15 Q Who was responsible for that?
 - A I don't know. Shortly after that I wasn't in town, so I don't know.
 - Q Who would normally be in charge of things like that?
- 20 A Bill Horvath.
- 21 Q Are you aware of a spill or leak of hydrochloric 22 acid in December of 1989 at the Elkhart 23 facility?
- 24 | A No.
- 25 Q Are you aware of a spill or leak of a

combustible liquid in August of 1989 at the 1 2 Elkhart facility? 3 Α No. Q Are you aware of a spill or leak of chlorine in 4 5 April of 1989 at the Elkhart facility? 6 Α No. 7 Q Are you aware of spills or leaks of sodium 8 hydroxide in March of 1989 at the Elkhart 9 facility? 10 Absolutely not. Α 11 Are you aware of hydrofluorosilicic acid being 12 leaked or spilled in March of 1989? 13 Α No. 14 How about sodium metal in March of 1989? 15 A No. 16 Q How about ethyl alcohol in March of 1989? 17 Α No. 18 A Are you aware of spills or leaks of argon in 19 October of 1988? 20 No, I'm not. Α 21 Were you employed at the Elkhart rail yard in Q 22 October of 1988? 23 Α Yes. 24 What about spills or leaks of flammable gas in Q

August of 1989 or '88?

- No. 1 Α 2 Q What about a spill or leak of sodium hydroxide 3 in June of 1988? 4 Α No. 5 Q Do you know if any steps were ever taken to . 6 clean up the first release that you talked 7 about, the one that went into the St. Joseph 8 River? 9 Α Yes, absolutely. 10 Can you tell me about that? Q 11 O.H.M. Materials was the name of the Α 12 environmental company. 13 Q Did they clean up only at the rail yard? 14 Oh, no. They cleaned the St. Joe River; they 15 cleaned up the river; they cleaned up all piping 16 to the river -- that is the city piping and they 17 cleaned up the piping from the city to the 18 property. I believe they did the separator, 19 they did a modification down there to the piping 20 so it wouldn't happen again. They did all kinds 21 of things.
 - Q Is this the cleaning and maintenance of that oil/water separator that you described earlier?
 - No. I've had it done since then. Α

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Q Do you know who at O.H.M. Materials was

1		contacted of who was in charge of this
2		operating?
3	A	No.
4		I just thought of who the name of that
5		company that you were asking about. It was
6		Aces, A-c-e-s, that cleaned the oil/water
7		separator.
8	િ	And they did that second cleaning?
9	A	Yes.
10	ବ	Do you know a person or a contact at Aces?
11	A	No, I don't.
1 2	Q	Are you aware of any time that the waste oil
1 3		tanks have been cleaned?
1 4	Α	No.
1.5	Q	Were they cleaned in December of 1989?
16	A	Not the waste oil tanks, no.
17	, Q	Do you know if any analytical tests were done
18		pursuant to the cleaning Aces did?
19	A	Aces?
20		MR. ERMILIO: Analytical tests of what?
21	BY	MR. JAFFE:
22	ବ	Were there any chemical analysis tests done in
23		relation to the clean up that Aces did, the
2 4		maintenance that Aces performed?
25	A	Okay. Yes.

Α

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Can you describe that for me, please? . Q

All right. When Aces came in to clean the oil/water separator here and here (indicating), prior to putting it out for bid, I hired EIS Engineering to come in, take a composite sample of the materials in the separator -- both. separators -- and have it analyzed. And as a result of that, they gave me three packages that amounted to about two inches of paperwork describing these materials. I then took that and put a contract out with that as an attachment to a couple of vendors to have them submit bids to perform the cleaning of these separators. Aces was awarded the contract.

Now, before they actually started work, they then took their own samples to, in fact, verify that my samples matched what they bid on.

And then my understanding is after they do clean the separator out and put this material into 20- and 30-cubic yard containers and stabilize it, they then are required to take samples again before taking it to a disposal site.

So the material was sampled many, many, many times along the way.

Did you ever perform any inventories 1 2 pursuant to community right to know laws? 3 Α Our material management people have done 4 the inventory and then provided me a copy, both 5 right to know from an employee standpoint and I 6 think there is community right to know. 7 Other than those inventories and making 8 available the M.S.D.S. sheet that you spoke 9 about earlier, do you have any other duties 10 pursuant to community right to know or worker 11 right to know? 12 Duties? Well, 'I don't exactly know what you're A 13 trying to ask me. Reword it again. 14 Okay. You said material management performs Q 1.5 inventories, correct? 16 Um-hmm. A 17 Q Pursuant to community right to know requirements 18 and that you make M.S.D.S. sheets available to 19 your employees pursuant to worker right to know, 20 are there any other requirements under those --21 the auspices of those two umbrellas -- that 22 impact on your facility? 23 Α Basically, no. Part of the right to know is, of 24 course, my employees have to be trained on a 25 periodic basis on right to know, that it's

available. You have to have posters up saying 1 2 it is available, saying that you have to have 3 the book available with it, and that if somebody 4 requests to look at it, you keep a log of all of 5 this. This is all according to the laws under the right to know. So is that the answer you 6 7 were looking for? Those are the basic 8 components of the right to know. 9 Q Yes. As far as I know, I'm in compliance with them 10 Α 11 all. Q 12 Are you aware of any tank cars that have been 13 buried at the Elkhart facility? 14 Α No. 15 Q Are you aware of any operations which would 16 involve degreasing of parts or machinery at the 17 Elkhart facility? 18 A No. 19 Q Does grease ever build up on the engine parts 20 that you work on? 21 A Yes. 22 Q What do you do about that? 23 It falls off. A

You just let it build up until it eventually

24

25

Q

falls off?

what they were using.

But did they do some degreasing?

Some kind of washing. And I don't know what

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A

they did really, but it was some kind of washing 1 2 procedure. 3 And other than the two spills or leaks that you 4 have identified earlier, you are aware of no other spills or leaks? 5 I don't know of any others, that's correct. 6 A Are employees warned that the cleaner No. 14 7 that you described earlier is a hazardous 8 9 substance? 10 I don't think the word "hazardous" is used. think they use the term "caustic," that it 11 causes caustic irritation and that protective 12 equipment is required. I think you would call 13 that an industrial cleaner, but I don't think 14 the word "hazardous" is used. 15 16 Are they given any instructions on how to Q · 17 dispose of material, be it rags or gloves, that come into contact with cleaner No. 14? 18 19 No. Α What about the Inhibisol? 20 Q 21 When you use it, it evaporates immediately. Α 22 It's very volatile. 23 Q But are they given any specific handling 24 instructions for the handling of spent spray 25 cans or other things that come in contact with

1		it?
2	A	Reword that again.
3	ବ	First, are they given instructions into the
4		handling of spent spray cans which once
5	:	contained Inhibisol?
6	A	We don't give them any instructions on empty
7		cans, no.
8	ବ	What about instructions about other things like
9	ļ Ī	rags, gloves, or other things that might come
0		into contact with the Inhibisol?
. 1	A	No.
. 2	Q	Okay. You described earlier in some detail the
3		reclamation of the oil at the facility.
. 4		Are you familiar with the reclamation or
5		recycling of any other chemical products at the
. 6		facility?
7	Α .	No.
. 8	Q	All right.
. 9		MR. JAFFE: Nothing further.
20		MR. CUNNINGHAM: Mr. Harville, most of
21		my questions have been asked, but a few
22	<u> </u>	that haven't.
2.3		CROSS EXAMINATION
2.4	ВУ	MR. CUNNINGHAM:
> ร	a	Tell me shout your knowledge of the Elkhart yer

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with respect to hazardous material spills and
 1
 2
           the leaks before January of 1988. Do you have
 3
           any knowledge at all about what occurred?
 4
      A
           None whatsoever.
      Q
 5
           It is my understanding that you have never been
 6
           an employee of anyone other than Conrail; is
 7
           that correct?
 8 '
      A
           No.
 9
      Q
           Since your graduation from college?
10
           That's correct.
       Α
           You've never worked for Penn Central for example
11
      Q
12
           or for New York Central; is that right?
13
           That's correct.
      Α
14
           Do you know a Mr. Ted Berkshire?
15
      A
           No.
16
      Q
           Do you know a Mr. Claude Brewton?
17
       Α
           No.
18
      Q
           Do you know any of these names: Greg Kirk?
19
      A
           No.
20
           Jeff White?
       Q
21
           No.
      Α
22
      Q
           Ben Friese?
23
      Α
           No.
24
      Q
           Steve Law?
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25

Α

No.

4	Q	Have you read any statements or depositions
2		given by Mr. Ted Berkshire or Mr. Claude
3		Brewton?
4	A	No, I have not.
5	વ	Are you familiar with procedures that were used
6		or allegedly used prior to January of 1988 by
7		either Conrail or Penn Central with regard to
8		degreasing, that is before to January of 1988?
9		You've testified, I believe, as to what you do
0		know in answer to Mr. Jaffe's questions about
. 1		degreasing; is that right?
2	A	That's a long question. How about breaking that
. 3 .		down somewhat?
. 4	ବ	Okay. Do you have any knowledge at all about
5		procedures before January 1988 regarding
. 6		degreasing?
. 7	A .	No, I have no knowledge of it.
. 8	Q	In fact, you have very little knowledge about
9		any degreasing that occurred or may have
20		occurred after you went to Elkhart; isn't that
2.1		right?
2 2		MR. ERMILIO: He said earlier that
2 3		there was no degreasing.
2.4		MR. CUNNINGHAM: That's what I'm trying

to get to.

- Q You're not aware of any, are you?
- 2 A I'm not aware of any degreasing operations since 3 I've been in Elkhart.
 - Q Did you ever speak with anyone about what took place before January of 1988?
 - A I have no reason to, no, sir.
 - Q I believe you answered this, but I will ask this to make sure.

It is alleged that there was a collision of two tank cars in the yard at Elkhart in the late 60s in which allegedly some carbon tetrachloride spilled into the ground.

Do you know anything about that?

- A No. I was in high school.
 - Who do you deal with in Philadelphia with regard to questions involving the two spills that you did mention that occurred while you were at the Elkhart yard?
- 19 A Tom Pendergast, his office.
- 20 Q So he's the one who's mainly involved with those kinds of incidents; is that correct?
 - A That's basically true, yes.
 - Q And with regard to the two spills, you did mention he was involved in both of those?
- 25 | A Yes.

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1 Without going into great detail, I take it that Q 2 the chain of command is that you call Dearborn 3 and also call Tom Pendergast; is that correct? Or tell me about that. 5 No. I reported it to -- which incident are you Α 6 talking about? 7 Q Well, let's take the first one first. I believe 8 you said it was in either May of '90 or May of 9 '89. 10 Α I don't really recall the exact sequence 11 of who was called or what, but division was 12 notified and Mr. Pendergast's office was 13 notified. Whether I notified him or division 14 notified him or whoever did, I don't remember. 15 Q And you had discussions with him about that 16 incident? 17 Sure, it came out. Α 18 He investigated it? Q 19 Α Sure. 20 Q And did he issue a report, do you know? 21 I don't know. Α 22 Was there anyone at Conrail that you dealt with

out of the Philadelphia office or elsewhere

involving the spill that took place in May of

Q

1989?

23

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There was division, environmental people, and, 1 Α 2 of course, I have a chain of command that I have 3 to go through, the mechanical department. 4 0 That's probably the area that I wanted you to 5 give the chain of command for. If you don't 6 mind, just briefly outline how that chain of command goes with respect to that kind of an 7 incident? And I'm mainly interested in the 8 9 people involved, not necessarily the paperwork. 10 Well, my immediate supervisor at the time of the A 11 incident who has testified previously was K.E. 12 Carter. 13 And then you obviously reported it to him, did Q 14 you? 15 That's correct. Α 16 And who else was in that chain of command? 17 Well, he's my immediate supervisor. Who he carried it up to, I don't know. 18 19 Q So once you gave it to him, it was up to him to 20 take it from there; is that right? 21 That's correct. Α 22 Q Would he have involved Mr. Pendergast? 23 I don't know. Α

Who else do you know besides the people you've

mentioned that were involved in that incident?

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Q

In what capacity: cleaning it up, investigating 1 2 it, reporting it, or what? 3 Well, let's be more specific. Do you have a Q 4 claims office at Elkhart? Yes. 5 Α Who is head of that? 6 Q 7 Α I don't know at the time who was head of the 8 claims office. 9 Who is now? Q 10 A guy named Wes Callender. Α 11 And does he have a staff? Q 12 Two, I believe. A And what is his responsibility? 13 Q He's a Conrail claim agent. 14 Α 15 Q What does he do? Pays claims. 16 Α 17 Q Does he investigate claims? I believe he does, yes. 18 ·A 19 And do you know who he reports to? Q 20 Α No, I don't. 21 Well, we can ask him. Q 22 What about an insurance office? Do you 23 have an insurance office at Elkhart? Not that I'm aware of. 24

Do you know whether they have one in

25

Q

1 Philadelphia? 2. I don't get involved with insurance in any way, 3 shape, or form. 4 Q So you have no knowledge of that? 5 No knowledge. Α Other than the people you've mentioned with 6 Q 7 regard to the spill in May of 1989, was there anyone else at Conrail that was involved in 8 9 that? 10 Again, in what capacity? Α Capacity being someone from Philadelphia, some 11 Q 12 higher-up that you dealt with? No, not that I dealt with. My immediate boss, 13 A 14 Tom Pendergast was on the property. O.H.M. Materials was on the property. The City of 15 16 Elkhart was on the property. I.D.E.M. people 17 were on the property. There were plenty of 18 people there. I can't tell you all by name and 19 I didn't keep a log. Certainly. But to the best of your 20 Q recollection, the people you've mentioned are 21 22 all the people that were involved; is that right? 23 Yes. 24 Α

Now, some of the changes that occurred as shown

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Q

1		by the maps, do you know who designed and
2		engineered those changes?
3	A	To the best of my knowledge, the maps were drawn
4 ·		up and approved by the Conrail engineering
5		department.
6	ର	So they don't use outside contractors, to the
7		best of your knowledge, such as outside
8		engineers or architects?
9	A	I don't know.
10	ବ	Okay. Do you know who is responsible at Conrail
11		for design and engineering of rail yard
1 2		facilities?
13	A	No, I don't know who it is.
1 4	Q	To your knowledge, though, there is somebody at
15		Conrail who does have that responsibility?
16	A	I don't even know that.
1 7		MR. CUNNINGHAM: I think that's all the
18		questions I have.
19		MR. ERMILIO: I have a few questions.
20		CROSS EXAMINATION
21	BY	MR. ERMILIO:
22	ବ	If we can go back to the oil/water separator
23		running from the engine house to the Crawford
2 4		Ditch.
25	A	Um-hmm.

1	ĺ	by the maps, do you know who designed and
2		engineered those changes?
3	A	To the best of my knowledge, the maps were draw
4		up and approved by the Conrail engineering
5		department.
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7		best of your knowledge, such as outside
8		engineers or architects?
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11		for design and engineering of rail yard
12		facilities?
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18		questions I have.
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20	CROSS EXAMINATION	
21	BY	MR. ERMILIO:
2 2	ବ	If we can go back to the oil/water separator
23		running from the engine house to the Crawford
2 4		Ditch.
2 5	A	Um-hmm.
	l I	

And everything that gets on the floor is likely 1 - ဂ 2 to go down the drain and then to the system that runs to the oil/water separator? 3 4 A That's correct, everything. 5 Does the oil/water separator system, as you 6 described it, remove from the water the class 14 7 cleaner? My understanding is that the class 14 cleaner 8 bonds with the oil. That's how it removes it 9 from the floor or a piece of metal or whatever. 10 It bonds with it. A then when it goes through 11 12 the oil/water separator, when you remove the 13 oil, you also remove the soap that goes with it because there's a bond. 14 If it is not removed by the oil/water separator, 15 Q 16 would you know? 17 Only in as much as any samples that were taken Α at Crawford's Ditch would reveal. 18 What do you sample for at Crawford's Ditch? 19 Q 20 Many things. On a weekly basis, the state 21 requires us to take one called oils and greases. 22 And then on an every-other-week basis we have to 23 take, in addition to this, one called total

suspended solids, which gives you volatiles and

non-volatiles. Then once a month you check for

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metal, in particular hexachrome. And then once a quarter you also include PCB in your sampling. Those are the state requirements for the sampling at that point.

And they test for many different items. The lab uses a Freon extraction method that they can explain to you for these samples for extracting these various things and looking at these various things that are in it: hydrocarbons, metals, chlorine, chlorinated solvents, zylenes, toluenes, all of that. Oh, I don't know. There's a whole list of elements and testing that they do that I'm not really familiar with.

- Q You say you have a permit to discharge?
- A Yes.
- Q Are you aware of any violations of that permit by Conrail?
- No. There have been no violations of the permit in the last five years that I've been there.

In fact, the state comes in and even does their yearly audits on the facility with basically no exceptions being taken or very minor ones. And they've even written letters in the past, -- one letter in particular that I have a copy of -- complimenting us on not having

had any violations.

And also they do an audit on the lab, EIS, which they send a standard sample to the lab and then they wait for the lab to come back with the results, and then they check those results against what it's supposed to be in there. And they also issued a complimentary letter to them also.

- Q Who has access to areas that flow into this drainage system that runs into the oil/water separator by Crawford Ditch?
- A Has access to the area immediately surrounding Crawford's Ditch?
- Q No. I'm sorry. To the areas that run to the system.
- A Okay.
- Q In other words, access --
- A -- at the engine house.
- Q Yes.
- At the engine house, nobody has access to that.

 Anybody that comes on the property is, of course

 -- if anyone comes on the property and goes

 anywhere near these facilities, I know about it.
- Q How do you know about it?
- A Well, all the people that work for me they're

trained to challenge visitors, -- for self-1 preservation -- whether you be a safety man, regulatory agency, or I don't know, a hobo, or trespasser. How about a Conrail employee? 5 Q Absolutely, them too. Α 7 In fact, a guy comes to mind, this Tom Pendergast. He was out about three years ago, and he was challenged while on the property, and he's the head of the environmental. Pendergast was, I think, pleasantly surprised that my people would come up to him and question as to who he was, why he was there, did he have

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from me.

Q Could a Conrail employee pour anything into the floor of the engine house or down that drain or pour anything into the -- I'm sorry. that.

I.D., and did he have permission to be there

Could a Conrail employee pour anything in the floor of the engine house or down the drain in the floor of the engine house that runs into the system?

- Could a Conrail employee do it? Α
- What would they be pouring down there?

Well, only when -- not pouring down, but only A when they were washing an engine down or spilling something, anything that would be on the floor there is maybe going to get in the drain. But there's nobody there that would walk up that would pour something into the drain. Q Could a Conrail employee pour anything other than the items that you've listed that are found on the floor of that?

- A Not that I'm aware of. Nobody can just walk up and put anything in my oil/water separator or my engine house without me knowing about it, if that's what you're driving at.
- Q Do you know what happens to the residue or waste chemicals or any residues from the 55-gallon drums?
- A My understanding is -- and I don't have this firsthand -- is that, if there is any residue in the drums, there is a holding area, an aboveground tank, where they empty whatever the residue is in these tanks before they dispose of the drums.
- Q Where is that above-ground tank located that you're talking about?
- A It's near the retention pond, close to where I

- marked the "X" on the map. 1 2 Is it connected to the system running to the 3 oil/water separator? 4 Α No. Have you seen this above-ground tank? 5 Q 6 Yes. Α 7 Do you know what's in there? Q 8 No, I don't know. I do not know what's in Α 9 there. 10 Q You mentioned that you've seen E.P.A. and/or G.T.I. installing wells or testing in your area. 11 What areas in particular have you seen them 12 13 conducting tests? 14 Α Okay. In my area they've been all around the 15 entire engine house, the fuel pad, all the 16 tanks, all the buildings, the oil/water 17 separator, the underground tank, they were down 18 at the lagoon, and they were forever punching 19 holes down there. They had samplings all around 20 the lagoon and the underground tank, the above-21 ground tank, and, of course, I see them in 22 various other parts of the yard. But there's a
 - Q Has there ever been any upset or failure of the oil/water separator running to Crawford Ditch?

lot of places that were checked. A lot.

23

24

1	A	No. There's never been a release in the years
2		that I've been there.
3	Q	Are you aware of a release prior to your being
4		there?
5	A	No, I'm not aware of any.
6		MR. ERMILIO: I don't have any further
7		questions at this time.
8		MR. JAFFE: I just have a couple
9		follow-up questions.
10		REDIRECT EXAMINATION
11	вч	MR. JAFFE:
12	Q	In either of the spills or leaks that you
13		described earlier, was an organization called
1 4	·	Chemtrec ever informed of those incidents?
1 5	A	I don't know. I really don't know.
16	ବ	Are you familiar with the name Chemtrec?
1 7	A	I've heard of it. I believe it's a kind of
18		agency or national agency for reporting to out
19		what a chemical is or something. I'm not really
20		sure what it is.
21	Q	In what context have you heard of them?
22	A	Seems like I have seen a label on like a tank
23		car or a truck or some sort of highway vehicle
2 4		that gives a 1-800 number or something, and ${\rm I}$
2 5		always thought it was like a hotline or

1 something. But you were not trained in that in conjunction 2 3 with your Conrail training? 4 Α No. 5 Are you familiar with a handbook for the 6 handling of hazardous-material incidents? 7 Α No. You also stated that once the samples were 8 9 taken, the lab performs a Freon extraction, 10 correct? 11 Yes. A 12 You're saying that the lab uses Freon, not that Freon was obtained from the samples, correct? 1 3 14 Yes. I'm sorry if I indicated that. A 15 their testing method. That's what they call it. 16 That's quite all right. I just wanted to 17 clarify that. 18 The top of the oil/water separators are 19 open, aren't they? 20 On one, yes; on the other, no. Α 21 And on which one is the top open? 22. The one at the engine house. A 23 So it would be possible for someone to pour Q 24 something in there without your knowledge?

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No.

I had an incident about four years ago when I first came here. A maintenance guy asked me, he says, I have some oil left in a drum and I want to get rid of it, and could I put it in the oil/water separator. I asked him what kind of oil it was, and he said it was 10W30. He asked me if he could bring it down.

I allowed him to pour it into the oil/water separator so it could be separated out. And the grate that you pour it in there was probably some sand or dirt, and he left a mess. So after that, policy was with me: nobody puts anything in the oil/water separator unless I personally approve it. And if I'm going to approve it, I'm going to stand there and watch them do it because I want to know what it is and make sure they don't make a mess.

Anybody that comes near that oil/water separator my people have been told to challenge them and report them immediately. So to the best of my knowledge, nobody goes over and puts anything in that oil/water separator without me knowing it.

Q But it is possible for somebody to do that, though, isn't it?

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      Α
           I suppose.
 2
 3
                    MR. ERMILIO: Peter.
                    MR. JAFFE: I'm asking for a yes or no
 4
 5
                answer.
 6
                    MR. ERMILIO: Anything's possible.
 7
                    MR. JAFFE: I'm asking him.
 8
                    MR. ERMILIO: He's answered your
 9
                question about whether it's possible that
10
                somebody pour something in the oil/water
                separator, and he explained his position to
11
12
                that question.
                    MR. JAFFE: I don't think he answered
13
                the question. I'm asking him directly.
14
                    MR. ERMILIO: I believe you did answer,
15
16
                but you can answer it again.
17
           I suppose if they flew over in a plane and
      Α
18
           dropped a bag balloon full of chemicals, I
19
           suppose they could.
20
           All right.
21
                    MR. JAFFE:
                                No further questions.
22
      111
23
      / / /
24
      / / /
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      / / /
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1	MR. CUNNINGHAM: Nothing further.		
2	MR. ERMILIO: Nothing.		
3	MR. JAFFE: Thank you.		
4	(Deposition concluded at 2:45 o'clock p.m.)		
5	+ + + 000 + + +		
6			
7	· · · · · · · · · · · · · · · · · · ·		
8	Randy Harville		
9	SUBSCRIBED AND SWORN to before		
10	me this day of,		
11	A.D.,		
12			
13	Notary Public, State of Indiana		
14	County of Residence:		
1 5	My Commission Expires:		
16			
1 7			
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CERTIFICATE

I, Lois A. Schoenbeck, a Notary Public in and for the County of Porter and State of Indiana, do hereby certify there appeared before me at the said time and place RANDY HARVILLE, who was first duly sworn by me to testify the truth, the whole truth, and nothing but the truth to questions propounded at the taking of the foregoing deposition. I further certify that I then and there

I further certify that I then and there reported in machine shorthand the proceedings at the said time and place; that the proceedings were then reduced to typewriting from my original shorthand notes; and that the foregoing typewritten transcript is a true and correct record thereof.

I further certify that the deposition was read and signed in the presence of a duly authorized officer.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal this _____ day of

no de Schaenhech

Lois ¹A. Schoenbeck, Notary Public State of Indiana, Porter County

My Commission Expires 08-19-94



UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA SOUTH BEND DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) CIVIL ACTION NO.) S90-00056
CONSOLIDATED RAIL CORPORATION, a/k/a CONRAIL,)
Defendant) Judge Robert J. Miller

NOTICE OF RULE 30(b)(6) DEPOSITION

Pursuant to Federal Rules of Civil Procedure 30 and 34, plaintiff the United States of America shall take the deposition of the defendant Consolidated Rail Corporation pursuant to Fed. R. Civ. P. 30(b)(6) at 10:00 am on Wednesday, September 16, 1992 at the Office of The United States Attorney for the Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Conference Room 1, Philadelphia, Pennsylvania, 19106. The deposition will continue from day to day thereafter. The subject matter on which examination is requested is set forth below. aforementioned defendant shall designate one or more persons who shall testify as to matters known or reasonably available to the defendants on the subject matter set forth below. Pursuant to Fed. R. Civ. P. 34, the defendant is requested to bring to the deposition any documents relevant to the subject matter listed below that have not been previously produced.

All terms defined in the United States' Interrogatories shall have the same meaning herein.

The subject matter of the deposition is as follows:

MATTERS ON WHICH EXAMINATION IS REQUESTED

- 1. Your preparation of responses to the United States' Interrogatories and Request for Production of Documents (all sets) including interviews of or other contacts with employees, former employees, or contractors, and document searches conducted in the preparation of such responses. The matters inquired into through the United States' Interrogatories and Requests for Production of Documents are incorporated herein, and may be examined upon in this deposition.
- 2. Your document retention policies and the location and existence of documents relating to your operations.
- 3. Any investigation, interviews, record searches, measurements, modeling, analysis, quality assurance, quality control, studies, tests, sampling, or other data-gathering projects with respect to the Conrail Site.
- 4. Any study performed or conducted or any investigation to determine the existence and extent of any contamination of soils or groundwater at or near the Site, including without limitation, the nature of the study or investigation, the date(s) on which the study was conducted, all persons who conducted the study, the findings and conclusion of such study, and any reports or documents relating to such study.
- 5 Any investigations by you or any person acting on your behalf (performed at any time) into your handling,

treatment, transportation, storage or disposal of any type of hazardous substance or oil at the Conrail Site.

- 6. The operation and management of any facility with respect to the purchase, production, disposal, treatment, handling, storage or transportation of hazardous substances or oil at the Conrail Site.
- 7. The physical plant and layout of operations of the Conrail Railyard.
- 8. All operations of the Conrail Railyard and rail cars, including without limitation, the receiving, classifying, switching, humping, coupling, inspecting, processing, and departure of railcars; maintanance and repair of cars, tracks, and other equpment; fueling and refueling of cars and other equipment; disposal of waste, including without limitation, scrap; and any other operations performed.
- 9. The duties of all classifications of personnel, at the Conrail Railyard, including without limitation, all classifications of the following: terminal superintendant, terminal general car foreman, assistant division engineer, shop superintendant, pad foreman, road forman, trainmaster, yardmasters, stations department, assistant superintendent, switch tender, trainman, all maintanence personnel and the areas of responsibility of each union.
- 10. All processes, including without limitation, cleaning, greasing, degreasing, oiling, or mechanical repairs of

tracks, machinery, or rail cars, and any industrial processes, used at the Conrail railyard.

- 11. The source, purchase, and transport of coupounds, chemicals, oils, substances, or other materials used in any of the processes, as identified in the preceeding paragraph, used at the Conrail Railyard.
- instances known or suspected to involve solvents, greaseres, degreasers, hazardous substances, or oil, at the Conrail Site, whether or not such spills, leaks, accidents, or instances resulted in a release of such substances into the environment.
- 13. Your contracts, agreements and any other arrangements and any other communications with any person regarding the handling, transportation, treatment, storage or disposal of hazardous substances or oil at or through the Conrail Railyard.
- 14. Any contracts, rules, regulations, agreements, indemnifications, waivers, notices, shipping logs, waybills or any other communications or communications with any person regarding Conrail's handling of hazardous substances or oil which it or any other companies' rail cars carries.
- ______ 15. The policies and practices for disposal, storage, reclamation, or recycling of chemicals, solvents, oil, or any hazardous substances at the Conrail Railyard.
- 16. The testing, analysis, or inspection of the contents or exterior of rail cars entering, exiting, passing by

or through, stored in, or standing in the Conrail Railyard, including without limitation, testing, analysis, or inspection for hazardous substances or oil.

- 17. The relationship, agreements, contracts, between Conrail and any prior or succeeding corporate affiliates, subsidiaries, or predecessors, or any other persons or parties that owned or operated the Conrail Railyard, including without limitation, Penn Central and the New York Central.
- 18. Implementation of and decisions regarding compliance with the Administrative Order U.S. EPA Docket No. V-W-92-C-157, issued by EPA July 7, 1992, including development of the Work Plan.
- 19. The layout, construction, operation, cleaning, and maintanance of any drainage system existing now or in the past at the Conrail Railyard.
- 20. The burial or disposition of an object, substance, or other material, whether liquid, solid, or gaseous, whether contained or uncontained, at or in the vicinity of the Conrail Site, including without limitation, the burial of railway equipment, railcars, or the pouring of liquids or oils onto the ground or into any drainage system.
- 21. Any inspections, due diligence, or other review of the Conrail Site or the Railyard or documents, information, data, or any other information reviewed prior to acquisition of the Conrail Site whether performed by or for Conrail or any governmental entity, contractor, or agent of these.

- 22. The formation, incorporation, and legal creation of Conrail, including without limitation, the involvement of Congress and/or any governmental agency, departement, organization, commission, authority, or entity, and any advise, study, analysis, direction, or requirements of any such governmental entity with respect to Conrail's ownership, operations, property, organization, or services.
- 23. The Railway Reorganization Act and the United States Railway Association as they relate to the formation of Conrail, its ownership, operations, property, organization, or services, including without limitation, the assumption of liabilities and any requirements regarding property to be acquired.
- 24. Any reallocations or readjustments of Conrail securities or United States Railway Association obligations or any other adjustments or decisions made by the Special Court relating to the acquisition of property, interests, or obligations of any property or rail company, including without limitation, Penn Central.

Dated this 10th day of September 1992.

UNITED STATES OF AMERICA

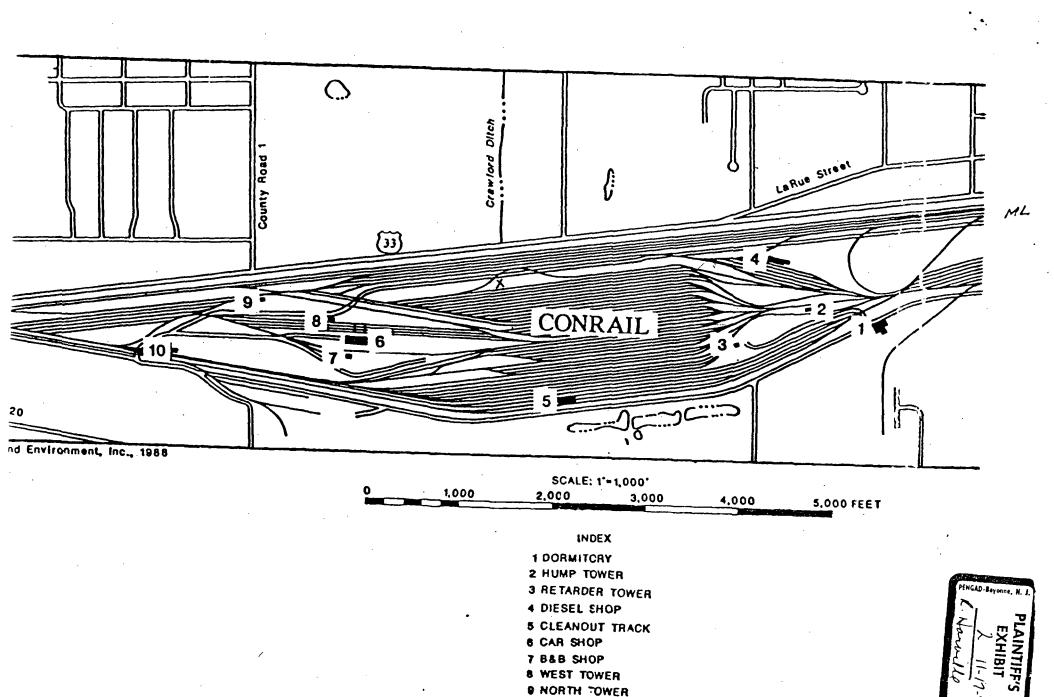
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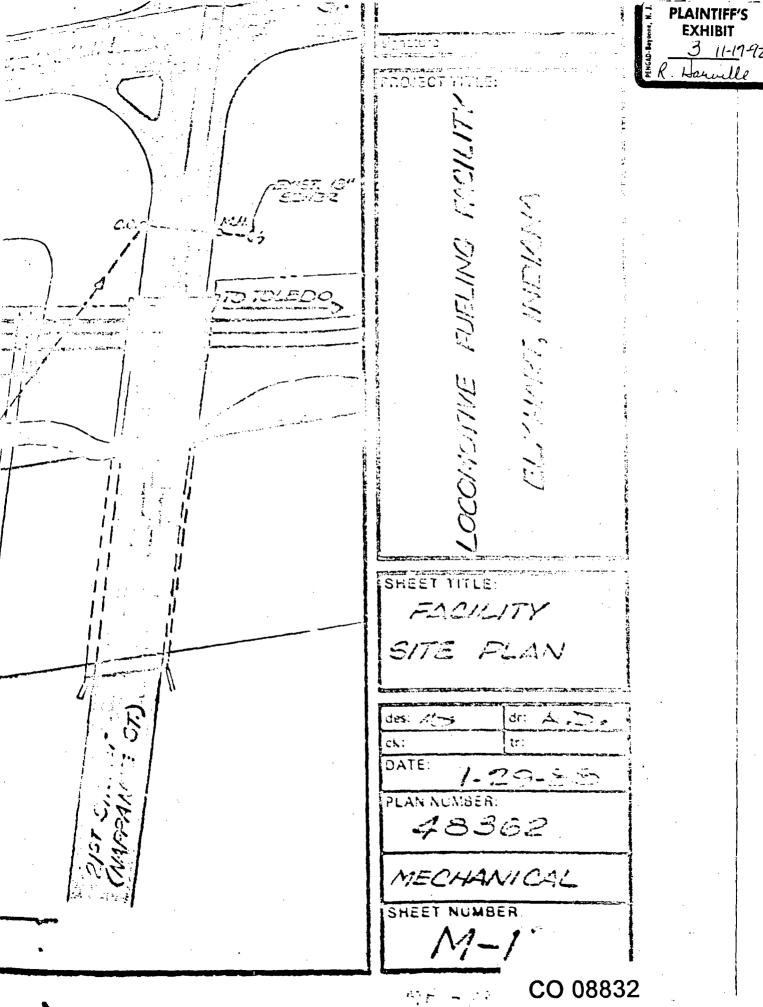
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PLAINTIFF'S
EXHIBIT
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SCOMOTIVE FUFLING FACILITY

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